CHAPTER 1

CODE OF ORDINANCES

1.01 Title. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Waukon, Iowa, 1998.

1.02 Definitions. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances 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, unless specifically defined otherwise in another portion of this Code of Ordinances:

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “Boulevard” or “parking” means that portion of a street lying between the curb (or, if none, the surfacing or traveled portion of the street) and the sidewalk (or, if none, the adjacent property line).
3. “City” means the City of Waukon, Iowa.
4. “Clerk” means the city clerk of Waukon, Iowa.
5. “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).
7. “Council” means the city council of Waukon, Iowa.
8. “County” means Allamakee County, Iowa.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Month” means a calendar month.
11. “Oath” means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words
“affirm” and “affirmed” are equivalent to the words “swear” and “sworn.”

12. “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.

13. “Ordinances” means the ordinances of the City of Waukon, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

14. “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.

15. “Preceding” and “following” mean next before and next after, respectively.

16. “Property” includes real property, and tangible and intangible personal property unless clearly indicated otherwise.

17. “Property owner” means a person owning private property in the City as shown by the County Auditor’s plats of the City.

18. “Public place” includes in its meaning, but is not restricted to, any open place, such as streets, parks and squares, owned or under the legal control of the City or any other governmental entity.

19. “Public property” means any and all property owned by the City or any other governmental entity.

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

21. “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.

22. “State” means the State of Iowa.


24. “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.
25. “Writing” and “written” include printing, typing, lithographing, or other mode of representing words and letters.

26. “Year” means a calendar year.

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 the Code of
Ordinances the following rules shall be observed, unless such construction
would be inconsistent with the manifest intent of the Council or repugnant to
the context of the provisions.

1. Verb Tense and Plurals. Words used in the present tense include
the future, the singular number includes the plural and the plural number
includes the singular.

2. May. The word “may” confers a power.

3. Must. The word “must” states a requirement.

4. Shall. The word “shall” imposes a duty.

5. Gender. The masculine gender includes the feminine and neuter
genders.

6. Interpretation. All general provisions, terms, phrases, and
expressions contained in the Code of Ordinances shall be liberally
construed in order that the true intent and meaning of the Council may be
fully carried out.

7. Extension of Authority. Whenever an officer or employee is
required or authorized to do an act by a provision of the Code of
Ordinances, the provision shall be construed as authorizing performance
by a regular assistant or a duly authorized designee of said officer or
employee.

1.07 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)

1.08 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.

1.09 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)

1.10 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least $105.00 but not to exceed $855.00. The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.

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

(Ord. 808 – Nov. 20 Supp.)

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.
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CHAPTER 2

CHARTER

2.01 TITLE. This chapter may be cited as the charter of the City of Waukon, 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 two (2) Council Members elected at large and one (1) Council Member from each of three (3) wards as established by this Code of Ordinances, elected 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 two (2) 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)
CHAPTER 3

BOUNDARIES

3.01 CORPORATE LIMITS. The corporate limits of the City are described as follows:

Beginning at the southeast corner of the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 6, Township 97 North, Range 5 West of the 5th P.M. in Allamakee County, Iowa;

Then west along the south line of said SE¼ NE¼ of Section 6 to the east right-of-way line of Iowa Highways 9 and 76;

Then north along said east highway right-of-way line to a point which is 264.0 feet south of the north line of the Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of said Section 6-97-5;

Then west along a line parallel to and 264.0 feet south of the north line of said NE¼ NE¼ of Section 6 and the north line of the Northwest Quarter of the Northeast Quarter (NW¼ NE¼) of said Section 6-97-5 to the west line of said NW¼ NE¼ of said Section 6;

Then north along the west line of said NW¼ NE¼ of Section 6 and the west line of the Southwest Quarter of the Northeast Quarter (SW¼ SE¼) of Section 31, Township 98 North, Range 5 West of the 5th P.M. to a point 84.0 feet north of the southwest corner of said SW¼ SE¼ of Section 31;

Then S 38° 00' W 713.5 feet along the boundaries of Lot 1 in the Southwest Quarter of the Southwest Quarter (SE¼ SW¼) of said Section 31 and Lot 1 in the Northeast Quarter of the Northwest Quarter (NE¼ NW¼) of said Section 6;

Then west 521.2 feet along the boundary of said Lot 1 in the NE¼ NW¼;

Then S 41° 00' W 440.0 feet along the boundary of said Lot 1 in the NE¼ NW¼.

Then west 1002.54 feet to the southeast corner of Lot 1 in the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) of said Section 6;

Then N 32° 50' W 257.4 feet and N 50° 50' W 191.4 feet along the northeasterly boundary of said Lot 1 in the NW¼ NW¼ to the east line of the county road right-of-way (Ninth Street, S.W.);

Then west to the west line of said right-of-way;
Then south along said west right-of-way line to the north boundary of Lot 1 of the East Half of the Northeast Quarter (E½ NE¼) of Section 1, Township 97 North, Range 6 West of the 5th P.M.;

Then west 165 feet along the north line of said Lot 1 of the E½ NE¼;

Then S 50° 25' W 156.42 feet along the northwest line of said Lot 1;

Then south 513.48 feet along the west line of said Lot 1 to the southwest corner thereof;

Then S 89° 50' E 280.5 feet along the south line of said Lot 1 to the west line of the county road right-of-way (Ninth Street, S.W.);

Then south 99 feet along west right-of-way line;

Then west to the west line of the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 1, Township 97 North, Range 6 West of the 5th P.M.;

Then north along the west line of said SE¼ NE¼ and along the west line of the NE¼ NE¼ of said Section 1 to the northwest corner of said NE¼ NE¼;

Then east along the north line of said NE¼ NE¼ and along the north line of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) of Section 6-97-5 to the east line of the county road right-of-way (Ninth Street, S.W.);

Then north along said east right-of-way line to the north line of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼) of Section 31, Township 98 North, Range 5 West of the 5th P.M.;

Then east along the north line of said SW¼ SW¼ and along the north line of the Southeast Quarter of the Southwest Quarter (SE¼ SW¼) of said Section 31-98-5 to the northeast corner of said SE¼ SW¼;

Then north along the west line of the Northwest Quarter of the Southeast Quarter (NW¼ SE¼) of said Section 31 to the center of said Section 31-98-5;

Then west 6.6 feet along the south line of the Southeast Quarter of the Northwest Quarter (SE¼ NW¼) of said Section 31-98-5 (which is also the south line of Lot 18 of said SE¼ NW¼ of Section 31);

Then S 0°17’W 100.0 feet;

Then S 90°00’W 63.4 feet;

Then N 0°17’E 100.0 feet to the south line of said SE¼ NW¼ of Section 31;

Then west along the south line of the Northwest Quarter (NW¼) of said Section 31-98-5 to the southwest corner of said NW¼ of Section 31;

Then N 87°31’08” W 32.90 feet to the west line of the county road right-of-way;
Then S 89°54'49" W 633.34 feet along the south line of Lot 1 in the Southeast Quarter of the Southeast Quarter of the Northeast Quarter (SE¼ SE¼ NE¼) of Section 36, Township 98 North, Range 6 West of the 5th P.M. to the southwest corner of said Lot 1;

Then N 00°15'41" E 133.00 feet along the west line of said Lot 1 to the northwest corner thereof;

Then N 00°15'41" E 529.95 feet along the west line of Countryside Estates Addition to Waukon, Iowa, to the northwest corner of Lot 3 of said Addition;

Then north along the west line of the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE¼ SE¼ NE¼) of Section 36, Township 98 North, Range 6 West of the 5th P.M., to the south line of Quandahl Industrial Park Subdivision;

Then S 89°53'54" W along the south line of Quandahl Industrial Park Subdivision to the southwest corner thereof (which point is also the southwest corner of the Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of said Section 36-98-6);

Then N 00°10'19" W 664.0 feet along the west line of Quandahl Industrial Park Subdivision to the northwest corner thereof;

Then N 89°57'54" E 513.53 feet along the north line of Quandahl Industrial Park Subdivision;

Then north 514.0 feet along the west line of the east 150.0 feet of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (NW¼ NE¼ NE¼) of said Section 36-98-6;

Then west 300.00 feet along the south line of the north 150.00 feet of said NW¼ NE¼;

Then north 150.00 feet to the south line of the Southeast Quarter of the Southeast Quarter (SE¼ SE¼) of Section 25, Township 98 North, Range 6, West of the 5th P.M.;

Then west along the south line of said SE¼ SE¼ of Section 25-98-6 to the southwest corner thereof;

Then north along the west line of said SE¼ SE¼ of Section 25-98-6 and the west line of the Northeast Quarter of the Northeast Quarter (NE¼ SE¼) of said Section 25-98-6 to the northwest corner of said NE¼ SE¼ of Section 25-98-6;

Then N 00°10'50" W 554.11 feet to the southwest corner of Lot 1 of Lot 3 in the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of said Section 25-98-6;

Then S 88°47'07" E 536.5 feet along the south lines of Lot 1 of Lot 3 and Lot 4 of Lot 3 in said SE¼ NE¼ of Section 25-98-6 to the southeast corner of said Lot 4 of Lot 3;
Then N 13°49’19” E 497.5 feet along the easterly line of said Lot 4 of Lot 3 to the northeasterly corner thereof;

Then N 13°49’19” E to the northerly right-of-way line of County Road 93½ (also known as Prairie Avenue NW);

Then northwesterly along the north right-of-way line of County Road 93½ to the northwesterly line of Lot 1 of Lot 4 in the Northwest Quarter of the Northeast Quarter (NW¼ NE¼) of Section 25-98-6;

Then N 32°59’46” E 355.19 feet along the northwesterly lines of said Lot 1 in Lot 4 in the NW¼ NE¼ and Lot 2 in the Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of Section 25-98-6 to the north corner of said Lot 2;

Then N 09°31’24” W 699.84 feet along the easterly line of Lot 4 in said NE¼ NE¼ of Section 25-98-6 and the westerly right-of-way line of Iowa Highway 76;

Then east to the west line of the traveled portion of Iowa Highway 76;

Then southeasterly along the west line of the traveled portion of Iowa Highway 76 to the north line of the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 25-98-6;

Then east along the north line of said SE¼ NE¼ of Section 25-98-6 and east along the north line of the Southwest Quarter of the Northwest Quarter (SW¼ NW¼) of Section 30, Township 98 North, Range 5 West of the 5th P.M. to the northeast corner of said SW¼ NW¼ of Section 30-98-5;

Then north along the west line of the Northeast Quarter of the Northwest Quarter (NE¼ NW¼) of said Section 30-98-5 and along the west line of the Southeast Quarter of the Southwest Quarter (SE¼ SW¼) of Section 19, Township 98 North, Range 5 West of the 5th P.M. to the northwest corner of said SE¼ SW¼ of Section 19-98-5;

Then east along the north line of said SE¼ SW¼ of Section 19-98-5 to the southwest corner of the Northeast Quarter of the Southeast Quarter (NW¼ SE¼);

Then north along the west line of said NW¼ SE¼ of Section 19-98-5 to the northwest corner thereof;

Then east along the north line of the Southeast Quarter (SE¼) of Section 19-98-5 to the westerly right-of-way line of Green Valley Road (County Road No. 86);

Then southeasterly along the westerly line of the right-of-way of Green Valley Road (County Road 86) to its point of intersection with the westerly line of the right-of-way of Iowa Highway 9 in the Southeast Quarter of the Southeast Quarter (SE¼ SE¼) of Section 19-98-5;

Then southwesterly along the westerly line of the right-of-way of Iowa Highway 9 to the north line of North Gate Second Addition to the City of Waukon;
Then east to the centerline of Iowa Highway 9;

Then southerly along the centerline of Iowa Highway 9 to the north line of the Southwest Quarter of the Northeast Quarter (SW¼ NE¼) of Section 30, Township 98 North, Range 5 West of the 5th P.M.;

Then east 414.5 feet along the north line of said SW¼ NE¼ of Section 30-98-5 to the west corner of Lot 1 of Lot 2 in the Northwest Quarter of the Northeast Quarter (NW¼ NE¼) of said Section 30-98-5;

Then northeasterly 2,858.0 feet along the northerly lines of Lot 1 of Lot 2 in said NW¼ NE¼ of Section 30-98-5, Lot 1 of the Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of said Section 30-98-5, and Lot 1 of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) of Section 29, Township 98 North, Range 5 West of the 5th P.M. to the east line of said NW¼ NW¼ of Section 29-98-5;

Then south along the east line of said NW¼ NW¼ of Section 29-98-5 to the southeast corner thereof (which is also the southeast corner of Lot 1 of said NW¼ NW¼);

Then west 1,178.0 feet along the south line of said NW¼ NW¼ of Section 29-98-5 to the northeast corner of Lot 2 of Lot 3 of the Southwest Quarter of the Northwest Quarter (SW¼ NW¼) of said Section 29-98-5;

Then south 665.94 feet along the east line of said Lot 2 of Lot 3 of the SW¼ NW¼ of Section 29-98-5 to the southeasterly corner of said Lot 2 of Lot 3;

Then southwesterly along the south line of said Lot 2 of Lot 3 to the east line of the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 30, Township 98 North, Range 5 West of the 5th P.M.;

Then south 597.63 feet along the east line of said SE¼ NE¼ of Section 30-98-5 (which is also the east line of Lot 3 of Lot 3 of said SE¼ NE¼) to the north corner of Lot 2 in said SE¼ NE¼;

Then southwesterly 35.0 feet along the northwesterly side of said Lot 2 in the SE¼ NE¼ to the south line of said SE¼ NE¼ of Section 30-98-5;

Then east 24.75 feet along the south line of said SE¼ NE¼ of Section 30-98-5 to the northwest corner of the Northwest Quarter of the Southwest Quarter (NW¼ SW¼) of Section 29, Township 98 North, Range 5 West of the 5th P.M.;

Then south along the west line of said NW¼ SW¼ of Section 29-98-5 to the northeast corner of Lot 1 in Block L of Hall, Arnold and O’Brien’s Addition to Waukon, Iowa;

Then east 55.0 feet;

Then south 308.5 feet along a line parallel to and 55.0 feet east of the east line of Hall, Arnold and O’Brien’s Addition;

Then east 10.0 feet;
Then south 456.9 feet along a line parallel to and 65.0 feet east of the east line of Hall, Arnold and O’Brien’s Addition;

Then west 65.0 feet to the southeast corner of Lot 8 of Block J of Hall, Arnold and O’Brien’s Addition (which is on the west line of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼) of Section 29, Township 98 North, Range 5 West of the 5th P.M.);

Then south along the west line of said SW¼ SW¼ of Section 29-98-5 to the northwest corner of Section 32, Township 98 North, Range 5 West of the 5th P.M.;

Then south 33.0 feet;

Then east 30.0 feet to the northwest corner of Lot 1 of Lot 2 in the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) of said Section 32-98-5;

Then east 703.89 feet along the north line of Lot 2 of said NW¼ NW¼ of Section 32-98-5 (which line is also the south line of the Elon Road or East Main Street right-of-way) to the northwest corner of Lot 2 in Lot 32 in Lot 2 of said NW¼ NW¼;

Then south 297.0 feet along the west line of said Lot 2 in Lot 32 in Lot 2 to the southwest corner thereof;

Then west 264.0 feet along the north line of Lot 31 in Lot 2 of said NW¼ NW¼ of Section 32-98-5 to the southwest corner of Lot 18 in Lot 2 of said NW¼ NW¼;

Then south 161.0 feet;

Then west 695.5 feet to the southwest corner of Lot 1 in Lot 31 in Lot 2 of said NW¼ NW¼ of Section 32-98-5;

Then north 458.0 feet along the west line of said Lot 1 in Lot 31 in Lot 2 and the west line of Lot 1 in Lot 1 in said NW¼ NW¼ of Section 32-98-5 to the south line of the East Main Street (also known as Elon Road and County Road A52) right-of-way;

Then east 230.25 feet along the south line of said road right-of-way to the west line of Lot 1 in Lot 1 in the Northeast Quarter of the Northwest Quarter (NE¼ NW¼) of said Section 32-98-5;

Then north 33.0 feet to the centerline of the East Main Street (a.k.a. Elon Road and County Road A52) right-of-way;

Then east 563.33 feet along said centerline (which is also the north line of said NE¼ NW¼ of Section 32-98-5) to the northeast corner of Lot 3 of Lot 1 of said NE¼ NW¼;

Then south 1,325.24 feet to the south line of said NE¼ NW¼ of Section 32-98-5;

Then west 663.26 feet along the south line of said NE¼ NW¼ of Section 32-98-5 to the center of the Northwest Quarter (NW¼) of Section 32-98-5;
Then south along the east line of the Southwest Quarter of the Northwest Quarter (SW¼ NW¼) of Section 32-98-5 to the southeast corner of said SW¼ NW¼;

Then S 00º02'13" E 761.88 feet to the northeast corner of Lot 5 of Lot 1 in the Northwest Quarter of the Southwest Quarter (NW¼ SW¼) of Section 32-98-5;

Then N 89º 43' 00" 503.34 feet;

Then N 00º06'46" E 758.52 feet to the north line of said NW¼ SW¼ of Section 32-98-5;

Then S 89º54'01" W 150.0 feet along the north line of said NW¼ SW¼;

Then S 00º19'36" W 1,322.35 feet along the west line of Lot 4 of Lot 1 and Lot 5 of Lot 1 of said NW¼ SW¼ of Section 32-98-5 to the south line of said NW¼ SW¼;

Then west along the south line of said NW¼ SW¼ to the southwest corner thereof;

Then south along the east line of the Southeast Quarter of the Southeast Quarter (SE¼ SE¼) of Section 31, Township 98 North, Range 5 West and south along the east line of the Northeast Quarter (NE¼) of Section 6, Township 97 North, Range 5 West to the southeast corner of said NE¼ of Section 6-97-5 which is the place of beginning.

In addition to the land embraced within the foregoing boundary line description, the corporate limits of the City also include the following parcel which, although not contiguous, is “adjoining” within the meaning of Iowa Code Section 368.1(1):

Lot Two (2) in Lot Three (3) in the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 25, Township 98 North, Range 6 West of the 5th P.M., according to the recorded plat thereof in Book H, of Plat Records on Pages 129-130; AND ALSO Lot Three (3) of Lot Three (3) in the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 25, Township 98 North, Range 6 West of the 5th P.M. according to the recorded Plat thereof in Book H, Page 215; AND ALSO a portion of Lot 3 of the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 25, Township 98 North, Range 6 West of the 5th P.M. described by metes and bounds as follows: Commencing at the northeast corner of Lot 1 of Lot 3 in said SE¼ NE¼, which point is the point of beginning; thence north along the westerly line of Lot 3 (east line of Lot 1) of said SE¼ NE¼ to the southwesterly corner of Lot 2 of said Lot 3; thence S 84º W 84.5 feet along the southerly line of Lot 2 of said Lot 3 to the southeasterly corner of said Lot 2 of Lot 3; S 53º W 105.5 feet to the point of beginning, said parcel being the remainder of Lot 3 of the SE¼ of the NE¼ of said Section 25 after excepting Lots 1 of 3, 2 of 3, 3 of 3, 4 of 3 and 5 of 3 from original Lot 3.
3.02 WARDS AND ELECTION PRECINCTS. The City is divided into the following three (3) wards, which also constitute the election precincts of the City:

1. FIRST WARD. The First Ward includes all of the following territory:

   A. All that part of the incorporated City lying within the following boundaries: Beginning at the intersection of Allamakee Street and Eighth Avenue NW; thence north along the centerline of Allamakee Street and Iowa Highway 9 North to its intersection with Tenth Avenue NW; thence westerly along the centerline of Tenth Avenue NW to its intersection with First Street NW; thence northerly along the centerline of First Street NW to its intersection with Eleventh Avenue NW; thence westerly along the centerline of Eleventh Avenue NW to its intersection with Second Street NW; thence south along the centerline of Second Street NW to its intersection with Tenth Avenue NW; thence westerly along the centerline of Tenth Avenue NW to its intersection with Fourth Street NW; thence southerly along the centerline of Fourth Street NW to its intersection with Eighth Avenue NW; thence east along the centerline of Eighth Avenue NW to its intersection with Allamakee Street, the point of beginning.

   B. All that part of the incorporated City lying east of the centerlines of Highway 9 North, Allamakee Street, Spring Avenue, Rossville Road and Highways 9 and 76 South.

   C. All that part of the incorporated City lying within the following boundaries: Beginning at the intersection of Allamakee Street and Fourth Avenue NW; thence west along the centerline of Fourth Avenue NW to its intersection with First Street NW; thence south along the centerline of First Street NW to its intersection with First Avenue NW; thence east along the centerline of First Avenue NW to its intersection with Allamakee Street; thence north along the centerline of Allamakee Street to its intersection with Fourth Street NW, the point of beginning.

2. SECOND WARD. The Second Ward includes all of the following territory:

   A. All that part of the incorporated City lying south of the centerline of West Main Street and west of the centerlines of Spring Avenue, Rossville Road and Highways 9 and 76 South.

   B. All that part of the incorporated City included within the area bounded on the east by the centerline of Allamakee Street, bounded on the north by the centerline of First Avenue NW, bounded on the west by the centerline of First Street NW and bounded on the south by the centerline of West Main Street.
3. THIRD WARD. The Third Ward includes all of the following territory:

   All that part of the incorporated City lying west of the centerline of Highway 9 North and Allamakee Street and lying north of the centerline of West Main Street EXCEPT those parts thereof which are included in the First Ward as provided in paragraphs A and C of subsection 1 of this section and EXCEPT that part thereof included within the Second Ward as set forth in paragraph B of subsection 2 of this section.

The wards described above include all territory annexed to the City on or before August 1, 2011. Territory annexed to the City subsequent to August 1, 2011, but prior to the next Federal decennial census or special Federal census shall be attached, by ordinance, to one of the wards established in this section which is contiguous to the annexed territory.

(Ord. 697 - Nov. 11 Supp.)
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CHAPTER 4
MUNICIPAL INFRACTIONS

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

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

4.02 ENVIRONMENTAL VIOLATION. A municipal infraction 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.

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

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

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

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

(Ord. 576 - Dec. 03 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.

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

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

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.

4. The amount of civil penalty to be assessed or the alternative relief sought, or both.

5. The manner, location, and time in which the penalty may be paid.

6. The time and place of court appearance.


8. The legal description of the affected real property, if applicable.

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

(Ord. 683 – Nov. 10 Supp.)

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

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

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

(Code of Iowa, Sec. 364.22[11])
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CHAPTER 5
OPERATING PROCEDURES

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 Waukon 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 Clerk
   C. Members of all boards, commissions or bodies created by law.

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the

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Mayor and 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])

   (Ord. 573 - Dec. 03 Supp.)

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 that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of $6,000.00 in a fiscal year.
    
    (Code of Iowa, Sec. 362.5[3j])
11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

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

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

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

(Subsections 10 through 12 – Ord. 798 – Nov. 20 Supp.)

(Ord. 573 - Dec. 03 Supp.)

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 APPOIINTED 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. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish
notice of the appointment in accordance with Section 372.13 of the Code of Iowa. 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. Special 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])

(Ord. 733 - Nov. 14 Supp.)

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)
CHAPTER 6

CITY ELECTIONS

6.01 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 376 of the Code of Iowa.

(Code of Iowa, Sec. 376.3)

6.02 CANDIDACY. An eligible elector of the City may become a candidate for an elective City office by filing with the County Commissioner of Elections a valid petition requesting that the elector’s name be placed on the ballot for that office. The petition must be signed by eligible electors equal in number to at least two percent (2%) of those who voted to fill the same office at the last regular City election, but not less than ten (10) persons.

(Ord. 734 - Nov. 14 Supp.)

6.03 RUN-OFF ELECTION IN LIEU OF PRIMARY. A run-off election shall be held in lieu of a primary election for the choosing of persons for elective offices.

(Code of Iowa, Sec. 376.6)

6.04 RUN-OFF ELECTION PROCEDURE. A run-off election shall be held only for positions unfilled because of failure of a sufficient number of candidates to receive a majority vote in the regular City election.

(Code of Iowa, Sec. 376.9)

6.05 QUALIFICATION. Candidates who do not receive a majority of the votes cast for an office, but who receive the highest number of votes cast for that office in the regular City election, to the extent of twice the number of unfilled positions, are candidates in the run-off elections.

(Code of Iowa, Sec. 376.9)

6.06 TIME HELD. Run-off elections shall be held four (4) weeks after the date of the regular City election and shall be conducted in the same manner as regular City elections.

(Code of Iowa, Sec. 376.9)
6.07 CANDIDATES ELECTED. Candidates in the run-off election who receive the highest number of votes cast for each office on the ballot are elected to the extent necessary to fill the positions open.

(Code of Iowa, Sec. 376.9)
CHAPTER 7

FISCAL MANAGEMENT

7.01 PURPOSE AND SCOPE. 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. However, except as provided in Sections 7.05, 7.06 and 7.08, the financial affairs of the municipal hospital shall be managed pursuant to Chapter 24 and the resolutions of the Hospital Board of Trustees rather than this chapter.

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund not to exceed one hundred dollars ($100.00) for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a
check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

4. Change Fund. The finance officer is authorized to draw a warrant/check on the Utility Fund for establishing a change fund in the amount of fifty dollars ($50.00) for the purpose of making change without commingling other funds to meet the requirements of the office. Said change fund shall be in the custody of the finance officer, who shall maintain the integrity of the fund.

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

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

2. Expenditures. No disbursement shall be made from any fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council or by a board or commission to which authority has been delegated to approve spending decisions. The Hospital Board of Trustees, the Library Board of Trustees, the Parks and Recreation Commission and the Airport Board shall have the authority to expend sums within their budgets without prior approval of the Council. The City Manager is also authorized to approve, without prior Council approval, budgeted expenditures and expenditures authorized by resolution of the Council adopted pursuant to City Code Section 17A.03(21).

(Ord. 795 – Nov. 19 Supp.)

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. Library Funds. A Library Fund and a Library Trust Fund shall be maintained. After July 1, 1998, all funds allocated by the Council for library purposes, all fines, rentals and fees collected under the rules of the Library Board, all revenue from contracts with other libraries and governmental agencies relating to the use of the library by nonresidents, and all other income derived from or intended to subsidize library operations shall be credited to the Library Fund. After July 1, 1998, all gifts and bequests to the library or to the City for library purposes shall be credited to the Library Trust Fund.

8. 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 committee is responsible for preparation of the annual budget detail, for review and adoption by the Council in accordance with directives of the Mayor and Council.

2. Boards and Commissions. With the exception of the Hospital Board of Trustees, 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 committee for inclusion in the proposed City budget at such time and in such form as required by the Council. Boards and Commissions anticipating the receipt of revenue from other sources shall provide itemized estimates of the same. The Library Board of Trustees shall also indicate the amounts
proposed to be spent from such other revenue and from existing balances in the Library Fund and the Library Trust Fund.

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

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under Code of Iowa Section 384.1, for the City’s trust and agency fund under Code of Iowa Section 384.6, Subsection 1, for the City’s emergency fund under Code of Iowa Section 384.8, and for the levies authorized under Code of Iowa Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under Code of Iowa Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

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

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

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

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

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

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

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

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

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

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

5. Council Review. The Council shall review the proposed budget and may make any adjustments it deems appropriate in the budget before accepting such proposal for publication, hearing, and final adoption. The Council retains exclusive control over new allocations for library purposes, but it shall not adjust the amount of any proposed expenditures from existing balances in the Library Fund or in the Library Trust Fund without the approval of the Library Board of Trustees.

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

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

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

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

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

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

9. Hospital Budget. The Hospital Board of Trustees shall develop and adopt its budget following substantially the same procedures as set forth above for the City budget, and shall submit the budget to the Council for review and approval at such time as directed by the Council.
The Clerk shall transmit copies to the County Auditor. Any City revenue appropriated for the support of the Hospital shall be included in the City’s budget and no separate tax levy shall be certified for Hospital operations.

*(Section 7.05 – Ord. 799 – Nov. 20 Supp.)*

### 7.06 BUDGET AMENDMENTS

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

### 7.07 ACCOUNTING

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

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

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

3. **Checks.** Checks shall be prenumbered and signed by the Clerk following Council approval, except as provided by subsection 5 hereof.

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

5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll, postage 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, on behalf of the City, and an officer designated by the Hospital Board of Trustees, on behalf of the municipal hospital, shall prepare and file the following financial reports:

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.

2. Annual Report. Not later than December 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)

[The next page is 53]
CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 PURPOSE. The purpose of this chapter is to provide for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, distribution centers and the acquisition of or improvement to machinery and equipment assessed as real estate.

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

1. “Actual value added” means the actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the local assessor as of January 1 of each year for which the exemption is received.

2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

3. “New construction” means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process
those products, which determination shall receive prior approval from
the City Council of the City upon the recommendation of the Iowa
Department of Economic Development.

4. “New machinery and equipment assessed as real estate” means
new machinery and equipment assessed as real estate pursuant to Section
427A.1, Subsection 1, Paragraph “e”, Code of Iowa, unless the
machinery or equipment is part of the normal replacement or operating
process to maintain or expand the existing operational status.

5. “Research-service facilities” means a building or group of
buildings devoted primarily to research and development activities,
including, but not limited to, the design and production or manufacture
of prototype products for experimental use, and corporate research
services which do not have a primary purpose of providing on-site
services to the public.

6. “Warehouse” means a building or structure used as a public
warehouse for the storage of goods pursuant to Chapter 554, Article 7, of
the Code of Iowa, except that it does not mean a building or structure
used primarily to store raw agricultural products or from which goods
are sold at retail.

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to
industrial real estate by the new construction of industrial real estate, research-
service facilities, warehouses, distribution centers, and the acquisition of or
improvement to machinery and equipment assessed as real estate, is eligible to
receive a partial exemption from taxation for a period of five (5) years.

(Code of Iowa, Sec. 427B.3)

8.04 AMOUNTS ELIGIBLE FOR EXEMPTION. The amount of actual
value added which is eligible to be exempt from taxation shall be as follows:

(Code of Iowa, Sec. 427B.3)

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

8.05 LIMITATIONS. The granting of the exemption under this chapter for
new construction constituting complete replacement of an existing building or
structure shall not result in the assessed value of the industrial real estate being
reduced below the assessed value of the industrial real estate before the start of the new construction added.

(Code of Iowa, Sec. 427B.3)

8.06 APPLICATIONS. An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

(Code of Iowa, Sec. 427B.4)

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.

2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty days after such hearing the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

(Code of Iowa, Sec. 427B.4)

8.08 EXEMPTION REPEALED. When in the opinion of the City Council continuation of the exemption granted by this chapter ceases to be of benefit to the City, the City Council may repeal this chapter, but all existing exemptions shall continue until their expiration.

(Code of Iowa, Sec. 427B.5)

8.09 DUAL EXEMPTIONS PROHIBITED. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Code of Iowa, Sec. 427B.6)
CHAPTER 9

URBAN RENEWAL

9.01 Purpose

9.02 Southeast Urban Renewal Area

9.03 Industrial Park Urban Renewal Area

9.04 1996 Addition to the Southeast Urban Renewal Area

9.05 1997 Addition to the Southeast Urban Renewal Area

9.06 1998 Addition to the Southeast Urban Renewal Area

9.07 Second 1998 Addition to the Southeast Urban Renewal Area

9.08 2001 Addition to the Southeast Urban Renewal Area

9.09 2006 Addition to the Southeast Urban Renewal Area

9.10 2008 Addition to the Southeast Urban Renewal Area

9.11 First 2010 Addition to the Southeast Urban Renewal Area

9.12 Second 2010 Addition to the Southeast Urban Renewal Area

9.13 Third 2010 Addition to the Southeast Urban Renewal Area

9.14 2012 Addition to the Southeast Urban Renewal Area

9.15 Second 2012 Addition to the Southeast Urban Renewal Area

9.16 2014 Addition to the Southeast Urban Renewal Area

9.17 2015 Addition to the Southeast Urban Renewal Area

9.18 2018 Addition to the Southeast Urban Renewal Area

9.19 2020 Addition to the Southeast Urban Renewal Area

9.20 2021 Addition to the Southeast Urban Renewal Area

9.01 PURPOSE. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Urban Renewal Areas of the City each year by and for the benefit of the State, City, County, school districts or other taxing districts after the effective date of the ordinances codified in this chapter in order to create a special fund to pay the principal of and interest on loans, advances or indebtedness, including bonds proposed to be issued by the City, to finance projects in such areas.

9.02 SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the Southeast Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on December 17, 1990:

Beginning at a point on the north right-of-way line of West Main Street, which point is located directly opposite of the northward extension of the west right-of-way line of West Street, then eastward along the north right-of-way line of West Main Street to the centerline of Allamakee Street, and continuing eastward on the north right-of-way line of East Main Street to the east line of the alley in Block No. 9 of original plat of Waukon, thence northward on said alley east line to its intersection with the east-west centerline of said Block 9, thence eastward along said centerline to its intersection with the west right-of-way line of First Street NE, thence south to the north right-of-way line of East Main Street, and continuing eastward along said line to its intersection with the section line of Sections 29 and 30, T 98 N, R 5 W, 5th P.M., thence south on said section line to its intersection with the south right-of-way line of East Main Street (a.k.a. Elon Road and County Road A-52), this line also being the City corporate limit line, and proceeding eastward along said corporate limit line to the north-south centerline of the NE¼ of the NW¼, S 32, T 98 N, R 5 W, 5th P.M., thence south along said centerline to the south line of said quarter-quarter section, thence west along the south line of said quarter section and continuing westward along the south line of the NW¼ of the NW¼ of said Section 32 to the northeast corner of the NW¼ of the SW¼ of the SW¼ of said Section 32, thence southward along the north-south centerline of the SW¼ of the NW¼ and the north-south centerline of the NW¼ of the SW¼ of said Section 32 to the south line of the said NW¼ of the SW¼, thence westward along said south line to the section line between Sections 31 and 32 and...
continuing westward along the south line of the NE¼ of the SE¼, Section 31, T 98 N, R 5 W, 5th P.M., to the intersection of said line with the east right-of-way line of Highway 9 & 76, thence northward along said right-of-way to its intersection with the north line of the SE¼ of the said Section 31, thence westward along the said quarter line to the northwest corner of the SE¼ of the said Section 31, thence continuing westward on the north line of the SW¼ of the said Section 31 to its intersection with the west right-of-way line of Third Street SW, thence northward on said right-of-way line to its intersection of the south right-of-way of Fifth Avenue SW, thence eastward on said right-of-way line to its intersection with the west right-of-way line of Second Street SW, thence northward on said right-of-way line to its intersection with the north right-of-way line of Third Avenue SW, thence eastward on said right-of-way to its intersection with the west right-of-way line of West Street, thence northward on said right-of-way line and its northward extension to the point of beginning.

The taxes levied on the taxable property in the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 388, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1, 1989, shall be allocated to and when collected be paid into the fund of the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Southeast Urban Renewal Area on the effective date of Ordinance No. 388, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll as of January 1, 1989, shall be used in determining the assessed valuation of the taxable property in said Southeast Urban Renewal Area on the effective date.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the
Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

9.03 INDUSTRIAL PARK URBAN RENEWAL AREA. (Repealed by Ord. 769 – Dec. 18 Supp.)

9.04 1996 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 1996 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on November 4, 1996, and amended by resolution adopted on February 4, 2013.

The Southwest Quarter of the Southwest Quarter, except that part of the Southwest Quarter of the Southwest Quarter lying west of the east line of the county road right-of-way (Ninth Street, SW); and the Southeast Quarter of the Southwest Quarter, except Lot 1 in the Southeast Quarter of the Southwest Quarter; and except Lots 7, 8 and 9 and Lot 6 except Lot 1 of Lot 6 of Waukon Industrial Park Second Addition, in the City of Waukon, all in Section 31, Township 98 North, Range 5 West of the 5th P.M., Allamakee County, Iowa; AND ALSO the North Half of the Northwest Fractional Quarter, except a strip from the southwest corner thereof, eighty (80) rods east and west, and containing thirteen (13) acres, more or less; also except Lot One (1) in the Northwest Quarter of the Northwest Fractional Quarter, also except Lot One (1) in the Northeast Quarter of the Northwest Quarter, and also except that part of the North Half of the Northwest Fractional Quarter lying west of the east line of the county road right-of-way (Ninth Street, SW), all being in Section 6, Township 97 North, Range 5 West of the 5th P.M., in Allamakee County, Iowa; AND ALSO the Northwest Quarter of the Southeast Quarter, including all platted lots within said Northwest Quarter of the Southeast Quarter; and the Southwest Quarter of the Southeast Quarter, all in Section 31, Township 98 North, Range 5 West of the 5th P.M.; AND ALSO the north 8 acres of the Northwest Fractional Quarter of the Northeast Quarter of Section 6, Township 97 North, Range 5 West of the 5th P.M., more particularly described as follows: Commencing at a point 50 feet west of the intersection of the north line of said forty with the center of Primary Road No. 13 and running thence west 1270 feet more or less to the northwest corner of said forty, thence south along the west line of said forty a distance of 274½ feet more or less of sufficient length to make 8 acres, thence east 1270 feet more or less to west line of highway thence north along west line of highway 274½ feet more or less to the place of beginning; all in Allamakee County, Iowa.

(Ord. 716 – Sep. 13 Supp.)
The taxes levied on the taxable property in the 1996 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 448, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 1996 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 1996 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 448, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 1996 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 1996 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 1996 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 1996 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 1996 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.
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9.05 1997 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 1997 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on February 3, 1997.

The Northeast Quarter of the Northeast Quarter, and the north six (6) rods of the Southeast Quarter of the Northeast Quarter, except Lot 1 of the East Half of the Northeast Quarter, and except that part of the north six (6) rods of the Southeast Quarter of the Northeast Quarter lying east of the west line of the county road right-of-way (Ninth Street, S.W.), all in Section 1, Township 97 North, Range 6 West of the 5th P.M.; AND ALSO all that part of the North Half of the Northwest Fractional Quarter (except a strip from the southwest corner thereof, eighty (80) rods east and west, containing thirteen (13) acres and except Lot 1 in the Northwest Quarter of the Northwest Fractional Quarter) lying west of the east line of the county road right-of-way (Ninth Street, S.W.), in Section 6, Township 97 North, Range 5 West of the 5th P.M.; all in Allamakee County, Iowa.

The taxes levied on the taxable property in the 1997 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 451, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 1997 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 1997 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 451, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 1997 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 1997 Addition to the Southeast Urban Renewal Area exceeds
the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 1997 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 1997 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 1997 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

9.06 1998 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 1998 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on March 16, 1998.

All real estate included within the public road right of way of Ninth Street SW extending form the northeast corner of the Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of Section 1, Township 97 North, Range 6 West of the 5th P.M. north to the northeast corner of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE¼ SE¼ NE¼) of Section 36, Township 98 North, Range 6 West of the 5th P.M. (said north terminal point also being the northeast corner of Lot 1 in Countryside Estates Subdivision according to the plat thereof recorded in Book K, Pages 228-242 on February 8, 1984), all in Allamakee County, Iowa.

The taxes levied on the taxable property in the 1998 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 489, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 1998 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 1998 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No.
489, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 1998 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 1998 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 1998 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 1998 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 1998 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 489 – Dec. 99 Supp.)

9.07 SECOND 1998 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA.

The provisions of this section apply to the Second 1998 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on March 1, 1999.

Lot 1 in the Southeast Quarter of the Southwest Quarter of Section 31, Township 98 North, Range 5 West of the 5th P.M., Allamakee County, Iowa; AND ALSO Lot 1 in the Fractional Northeast Quarter of the Northeast Quarter of Section 6, Township 97 North, Range 5 West of the 5th P.M., Allamakee County, Iowa, and more particularly described as follows: Commencing at the North Quarter Corner of said Section; thence South 01º-13'-12” West 275.70 feet along the North-South Quarter Section Line of said Section and the East Line of Lot 1 in the Fractional Northeast Quarter of the Northwest Quarter of said Section to
the Southwest Corner of the North 8 acres of the Fractional Northwest Quarter of the Northeast Quarter of said Section West of Iowa Highway 13 Right-of-Way Line (as recorded January 3, 1939); thence South 89º-53'-21" East 1,235.72 feet along the South Line of said North 8 acres to the existing Right-of-Way Line of Iowa Highway 9 and 76; thence South 25º-27'-59" West 174.93 feet along said Right-of-Way Line; thence North 89º-04'-47" West 539.69 feet; thence North 81º-06'-19" West 270.44 feet; thence North 77º-31'-40" West 102.23 feet; thence North 71º-34'-11" West 45.23 feet; thence North 70º-48'-01" West 223.40 feet to the Point of Beginning, containing 3.325 acres; AND ALSO Lot 1 of 1 in the Fractional Northeast Quarter of the Northwest Quarter of Section 6, Township 97 North, Range 5 West of the 5th P.M. Allamakee County, Iowa, and more particularly described as follows: Beginning at the North Quarter Corner of said Section; thence South 01º-13'-12" West 275.70 feet along the North-South Quarter Section Line of said Section and the East Line of Lot 1 in said Fractional Northeast Quarter of the Northwest Quarter to the North Corner of Lot 1 in the Fractional Northeast Quarter of the Northeast Quarter; thence South 88º-48'-08" West 267.85 feet to the West Line of said Lot 1 in said Fractional Northeast Quarter of the Northwest Quarter; thence North 36º-50'-36" East 351.51 feet along said West Line to the North Township Line and the Southwest Corner of Lot 1 in the Southeast Quarter of the Southwest Quarter of Section 31, Township 98 North, Range 5 West of the 5th P.M.; thence South 89º-56'-14" East 62.89 feet along said Township Line to the Point of Beginning, containing 1.050 acres.

The taxes levied on the taxable property in the Second 1998 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 492, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Second 1998 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Second 1998 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 492, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded,
refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Second 1998 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Second 1998 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Second 1998 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Second 1998 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Second 1998 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 492 – Dec. 99 Supp.)

9.08 2001 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2001 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted on February 20, 2001.

The Northeast Quarter of the Southwest Quarter (NE ¼ SW ¼) in Section 31, Township 98 North, Range 5 West of the 5th P.M., Allamakee County, Iowa.

The taxes levied on the taxable property in the 2001 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 527, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2001 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2001
Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 527, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 2001 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 2001 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 2001 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2001 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 2001 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 527 – Mar. 02 Supp.)

9.09 2006 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2006 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted on February 6, 2006.

Blocks 16, 17, 20, 21 and 22 of Delafield's Addition; Blocks 1, 2 and 3 of Armstrong's Addition; Blocks I and J of Pitt Shattuck's Addition; Blocks 10 and 11 and Lots 1 through 10, 15 and 16 of Block 9 of the Original Plat of Waukon and a strip one rod wide of and adjacent to said Block 9; all that part of the Courthouse Square in the Original Plat of Waukon lying east of Allamakee Street; Blocks 1, 2 and 3 of Scott Shattuck's First Addition; Blocks 9, 10 and 11 of Scott Shattuck's Third Addition; Lot 1 of NE¼ NW¼ of Section 31, Township 98 North, Range
5 West of the 5th P.M.; all of Ratcliffe's First Addition (Lots 1 through 34); Beginning at the corner stone of the northeast corner of the Northeast Quarter of the Northeast Quarter of Section 36, Township 98 North, Range 6 West of the 5th P.M. thence West along the center of highway a distance of 115 feet, thence South 93 feet, thence East 115 feet, thence North along the center of highway, 93 feet to place of beginning; Lot No. 11 in the Northeast Quarter of the Northeast Quarter of Section 36, Township 98 North, Range 6 West of the 5th P.M., formerly platted as Lots 2, 5, 7 and 8 of the Northeast Quarter of the Northeast Quarter of Section 36, Township 98 North, Range 6 West of the 5th P.M., as recorded in Book D of Plats on Page 138 of the Plat Records of Allamakee County, Iowa, containing 1.912 acres, more or less; and Lot No. 12 in the Northeast Quarter of the Northeast Quarter of Section 36, Township 98 North, Range 6 West of the 5th P.M., as platted in Book E of Plats on Page 379 of the Plat Records of Allamakee County, Iowa, EXCEPTING from said Lot 12, Lot 1 of Lot 12 as platted in Book I, Pages 265-268, BUT INCLUDING Lot 1 of Lot 1 of Lot 12 as platted in Book K, Pages 70 and 71; AND ALSO Lot A in Original Lot 10 in the Northeast Quarter of the Northeast Quarter of Section 36, Township 98 North, Range 6 West of the 5th P.M., according to the recorded plat thereof recorded in Book F, Page 204; the West 300 feet of the East 450 feet of the North 150 feet of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter, the East 150 feet of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter, and Lot C of Original Lot 10 of the Northeast Quarter of the Northeast Quarter, all in Section 36, Township 98 North, Range 6 West of the 5th P.M.; all of West View Addition; Lots 9 through 16 of Lot 4 and Lots 1 through 8 of Lot 5 of the SW¼ SE¼ SE¼ of Section 25, Township 98 North, Range 6 West of the 5th P.M.; Lots 6 and 7 of the SE¼ SE¼, of Section 25, Township 98 North, Range 6 West of the 5th P.M.; Lot B of the NE¼ SE¼, W½ of N½ of NE¼ SE¼, Lot A in the SE¼ SE¼, Lot 1 in SW¼ SE¼ and Lot 1 in NW¼ SE¼ all in Section 25, Township 98 North, Range 6 West of the 5th P.M.; Lot 2, 3, 4 and 5 in the N ½ SE ¼ SE ¼ and Lots B and D in SE ¼ SE ¼ all in Section 25, Township 98 North, Range 6 West of the 5th P.M., Allamakee County, Iowa, together with all public streets and alleys within or adjacent to all of the above described parcels.

The taxes levied on the taxable property in the 2006 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 605, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2006 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district
into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2006 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 605, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 2006 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 2006 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 2006 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2006 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 2006 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 605 – Dec. 06 Supp.)

9.10 2008 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2008 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted on October 20, 2008.

Lot 18 and Lot 2 of Lot 9 of the NW¼ SE¼; Lot 4 of the NE¼ SE¼; East 16½ acres of the SW¼ NE¼; Lot 1 of Lot 2 of the NW¼ NE¼; Lot 1, Lot 1 of Lot 3 and Lot 1 of Lot 2 of Lot 3 of the SE¼ NE¼; and Lot 1 of the NE¼ NE¼ of Section 30; and Lot 1 of the NW¼ NW¼ and Lot 1 of Lot 3 of the SW¼ NW¼ of Section 29, all in Township 98 North,
Range 5 West of the 5th P.M., in the City of Waukon, Allamakee County, Iowa.

The taxes levied on the taxable property in the 2008 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 648, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2008 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2008 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 648, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 2008 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 2008 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 2008 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2008 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the
City to finance or refinance in whole or in part projects in the 2008 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 648 – Nov. 08 Supp.)

9.11 FIRST 2010 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA.

The provisions of this section apply to the First 2010 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted on April 5, 2010.

A parcel of land located in the West Half of the Southeast Quarter of Section 25, Township 98 North, Range 6 West of the 5th P.M., Allamakee County, Iowa, more particularly described as follows: Commencing at the Southeast Corner of the Southwest Quarter of the Southeast Quarter of said Section 25; thence North 89°31'31" West (record bearing), 250.17 feet along the South Line of said Section to the Southerly extension of the West right-of-way line of 13th Street N.W.; thence North 00°19'00" East, 451.23 feet along said extension and said right-of-way line to the point of beginning; thence North 89°46'16" West, 388.00 feet; thence North 00°19'00" East, 976.09 feet; thence South 89°29'09" East, 388.00 feet to the Northwest Corner of Lot 1 in the Northwest Quarter of the Southeast Quarter of said Section; thence South 00°19'00" West, 974.17 feet along the West Line of said Lot 1, the West Line of Lot 1 in said Southwest Quarter of the Southeast Quarter and said West right-of-way line to the point of beginning; containing 8.685 acres, subject to easements of record; said real estate to be platted as Lots 2, 3 and 4 in the Southwest Quarter of the Southeast Quarter and Lot 2 in the Northwest Quarter of the Southeast Quarter, all in said Section 25.

The taxes levied on the taxable property in the First 2010 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 668, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the First 2010 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the First 2010 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 668, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the
annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the First 2010 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the First 2010 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the First 2010 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the First 2010 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the First 2010 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 668 – Nov. 10 Supp.)

9.12 SECOND 2010 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA.
The provisions of this section apply to the Second 2010 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted on May 3, 2010.

Commencing at the Southeast corner of Section 1, Township 97 North, Range 6 West of the 5th P.M.; thence N 1°-11' E, 387.0 feet to the point of beginning; thence N 1°-11' E, 2257.4 feet; thence N 89°-07' W, 50.0 feet; thence S 1°-11' W, 332.1 feet; thence S 4°-32' E, 100.5 feet; thence S 1°-11' W, 400.0 feet; thence S 6°-54' W, 100.5 feet; thence S 1°-11' W, 400.0 feet; thence S 4°-32' W, 100.5 feet; thence S 1°-11' W, 825.0 feet; thence S 88°-49' E, 40.0 feet to the point of beginning; except that portion lying in the SE 1/4 SE 1/4 of said Section 1; Allamakee County, Iowa; AND ALSO The South 10 acres of the West 40 acres of the North Half of the Fractional Southwest Quarter, Lot 1 in the Fractional Southwest Quarter of the Southwest Quarter, and Lot 1 in the Southeast Quarter of the Southwest Quarter; all in Section 6, Township 97 North, Range 5 West of the 5th P.M., Allamakee County, Iowa, according to the
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plat thereof recorded in Book Y, pages 129-136; AND ALSO Commencing at the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 1, Township 97 North, Range 6 West of the 5th P.M., which is also the point of beginning; thence N 89°-07' W, 50.0 feet; thence N 1°-00' E, 1219.7 feet; thence S 89°-00' E, 50.0 feet; thence N 1°-00' E, 128.8 feet; thence S 89°-00' E, 50.0 feet; thence S 1°-00' W, 1348.5 feet; thence S 1°-11' W, 821.4 feet; thence N 88°-49' W, 50.0 feet; thence N 1°-11' E, 821.4 feet to the point of beginning; Allamakee County, Iowa; AND ALSO Commencing at the Northwest corner of the Northwest Quarter of the Southwest Quarter of Section 6, Township 97 North, Range 5 West of the 5th P.M.; thence S 1°-11' W, 821.4 feet to the point of beginning; thence S 1°-11' W, 175.0 feet; thence S 88°-49' E, 50.0 feet; thence N 1°-11' E, 175.0 feet; thence N 88°-49' W, 50.0 feet to the point of beginning; Allamakee County, Iowa.

The taxes levied on the taxable property in the Second 2010 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 670, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Second 2010 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Second 2010 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 670, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Second 2010 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Second 2010 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Second 2010 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective
taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Second 2010 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Second 2010 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 670 – Nov. 10 Supp.)

9.13 THIRD 2010 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA.
The provisions of this section apply to the Third 2010 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted on May 17, 2010.

Commencing at the Northeast corner of the Northeast Quarter of the Northeast Quarter of Section 1, Township 97 North, Range 6 West of the 5th P.M.; thence S 1°-00' W, 664.8 feet to the point of beginning; thence S 1°-00' W, 586.0 feet; thence N 89°-00' W, 50.0 feet; thence N 1°-00' E, 260.0 feet; thence N 12°-19' E, 86.7 feet; thence N 1°-00' E, 150.0 feet; thence N 35°-30' W, 62.2 feet; thence N 1°-00' E, 41.0 feet; thence S 89°-00' E, 70.0 feet; to the point of beginning; in Allamakee County, Iowa; AND ALSO Beginning at the southeast corner of Lot 1 in the East Half of the Northeast Quarter of the Northeast Quarter; thence N 1°-00' E, 764.2 feet; thence S 47°-22' E, 93.6 feet; thence S 1°-00' W, 382.8 feet; thence S 12°-19' W, 102.0 feet; thence S 1°-00' W, 219.1 feet; thence N 89°-00' W, 50.0 feet to the point of beginning; AND ALSO Commencing at the Northwest corner of the Northwest Quarter of Section 6, Township 97 North, Range 6 West of the 5th P.M.; thence South 01°21'36" East (assumed bearing), 520.56 feet along the West line of said Section and Centerline of 9th Street SW to a line that is perpendicular to said West Line from a Southwesterly Corner of Lot 16 of Waukon Industrial Park Third Addition to the City of Waukon; thence North 88°38'24" East, 70.00 feet along said line to said Southwesterly Corner and East right-of-way line of said 9th Street SW; thence South 01°21'36" East, 68.97 feet along said right-of-way line to the point of beginning; thence continuing South 01°21'36" East, 29.95 feet; thence South 43°15'55" East, 232.67 feet; thence North 87°48'37" East, 69.02 feet to a Southwesterly line of said Lot 16; thence North 35°31'10" West, 23.94 feet along said Southwesterly line; thence South 87°48'37" West, 46.77 feet; thence North 43°14'55" West, 245.89 feet to the Point of Beginning, Allamakee County, Iowa.
The taxes levied on the taxable property in the Third 2010 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 671, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Third 2010 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Third 2010 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 671, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Third 2010 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Third 2010 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Third 2010 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Third 2010 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Third 2010 Addition to the Southeast Urban Renewal Area.
4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 671 – Nov. 10 Supp.)

9.14 2012 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2012 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the City Council by resolution adopted on April 2, 2012.

Lots 1 and 2, the South 62 feet of Lots 9 and 10, and the East 110 feet of the vacated alley in Block 15 of Delasfield’s Addition to the City of Waukon, Allamakee County, Iowa.

The taxes levied on the taxable property in the 2012 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 699, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2012 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2012 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 699, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the 2012 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the 2012 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the 2012 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and
interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the 2012 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the 2012 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 699 – Oct. 12 Supp.)

9.15 SECOND 2012 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA.
The provisions of this section apply to the Second 2012 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the City Council by resolution adopted on July 2, 2012.

Lots 9 and 10 of Block 15 of Delafield’s Addition to the City of Waukon, Allamakee County, Iowa, except the South 62 feet thereof

The taxes levied on the taxable property in the Second 2012 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 707, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Second 2012 Addition to the Southeast Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Second 2012 Addition to the Southeast Urban Renewal Area on the effective date of Ordinance No. 707, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Second 2012 Addition to the Southeast Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing
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district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Second 2012 Addition to the Southeast Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Second 2012 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Second 2012 Addition to the Southeast Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Second 2012 Addition to the Southeast Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 707 – Oct. 12 Supp.)

9.16 2014 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2014 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the City Council by resolution adopted on July 21, 2014.

Lot “A” in the Southwest Quarter of the Southwest Quarter of Section 6, Township 97 North, Range 5 West of the 5th P.M. according to the recorded plat thereof in Book F, Page 214, EXCEPTING THEREFROM Lot 1 in Lot A as platted in Book H, Page 281, Allamakee County, Iowa.

The taxes levied on the taxable property in the 2014 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 729, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of Ordinance No. 729, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year.
preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Iowa Code Section 403.9[1], incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area Amendment, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Amendment exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Iowa Code Section 403.9[1], or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area Amendment.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 729 – Nov. 14 Supp.)

9.17 2015 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2015 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the City Council by resolution adopted on March 2, 2015.

A parcel of land in Lot 1 of the Southwest Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M., more particularly described as follows: Commencing at a point at the center of Section 30-98-5, and running thence East 768 feet and 3 inches to the center of Primary Road No. 9, thence northerly along center of Primary Road No. 9 formerly known as Waukon- Lansing Ridge Road, 335 feet, thence West 33 feet to the true place of beginning on the land to be conveyed, thence West 150 feet to the southwest corner of land conveyed to the State of Iowa in warranty deed recorded in Book 68, Page 208, thence southerly and parallel to the West line of Primary Road No. 9 for 137 feet, thence East 150 feet to the west line of Primary Road No. 9, thence northerly to the place of beginning; and also Lot 4 in Lot 13 in Lot 1 and also Lot 1 in Lot 11 in Lot 1 all in the Southwest
Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M.; and also Lot 1 in Lot 9 in Lot 1 in the Southwest Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M., Allamakee County, Iowa; and also Lot 1 in Lot 12 in Lot 1 in the Southwest Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M., in Allamakee County, Iowa, according to the plat recorded in Book "F" of Plats on Page 27 in the Office of the County Recorder of said County; and also Lot 5 in Lot 13 in Lot 1 and Lot 2 in Lot 11 in Lot 1, and Lot A in Lot 13 in Lot 1 being a strip of land 14 feet 6 inches (originally thought to be 12 feet 3 inches) in width and running north and south in length, a total of 157 feet 6 inches and lying directly west of Lot 4 in Lot 13 in Lot 1; all in the Southwest Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M., according to Recorded Plats as shown in Book E, Page 424; Book G, Page 123 and other reference plats; and also a parcel of land 25 feet square described as follows: Commencing at the Northwest corner of Lot 2 of Lot 9 of Lot 1 of the Southwest Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M. in Allamakee County, Iowa, (according to the Plat of said Lot 2 of Lot 9 of Lot 1 recorded on August 30, 1960 in Book F of Plat Records of Allamakee County, Iowa, on Page 37) thence East 25 feet, thence South 25 feet, thence West 25 feet, thence North 25 feet to the place of beginning; and also Lot 7 in Lot 13 in Lot 1 and Lot 8 in Lot 13 in Lot 1 in the Southwest Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M., according to the recorded plats thereof; and also the East 60 feet of Lot 2 in Lot 13 in Lot 1 in the Southwest Quarter of the Northeast Quarter of Section 30, Township 98 North, Range 5 West of the 5th P.M. according to the recorded plats thereof; and an adjacent parcel of land described as beginning at the Southeast corner of said Lot 2 in Lot 13 in Lot 1 above, thence East 85 feet, thence North 160 feet, thence West 85 feet, to the Northeast corner of said Lot 2 in Lot 13 in Lot 1, thence South 160 feet to the said point of beginning.

AND

Commencing at the center of Section 30, Township 98 North, Range 5 West of the 5th P.M., thence east 768.25 ft., thence North 335.0 ft., along the centerline of Primary Road No. 9, thence west 183.0 ft. to the point of beginning; thence continuing west 150.0 ft., thence north 150.0 ft., thence east 150.0 ft., thence south 150.0 ft. to the point of beginning, containing .52 acres more or less. Note: The bearing on the south line of the Northeast Quarter of Section 30-98-5 is assumed to bear due east.

The taxes levied on the taxable property in the 2015 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, from and after the effective date of Ordinance No. 736, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the
assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of Ordinance No. 736, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Iowa Code Section 403.9[1], incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area Amendment, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Amendment exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Iowa Code Section 403.9[1], or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area Amendment.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 736 – Feb. 16 Supp.)

9.18 2018 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2018 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the City Council by resolution adopted on January 2, 2018.
Quandahl Industrial Park in the Northeast Quarter of the Northeast Quarter of Section 36, Township 98 North, Range 6 West of the 5th P.M., City of Waukon, Allamakee County, Iowa.

The taxes levied on the taxable property in the 2018 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area Amendment is located, from and after the effective date of Ordinance No. 770, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of Ordinance No. 770, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Iowa Code Section 403.9(1), incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area Amendment, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Amendment exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in Subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Iowa Code Section 403.9(1), or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area Amendment.
4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 770 – Dec. 18 Supp.)

9.19 2020 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2020 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the City Council by resolution adopted on July 20, 2020.

The South Half of Lots A and B in Block H of Pitt Shattuck’s Addition to the City of Waukon, Iowa.

The taxes levied on the taxable property in the 2020 Addition to the Southeast Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area Amendment is located, from and after the effective date of Ordinance No. 804, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of Ordinance No. 804, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Iowa Code Section 403.9(1), incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area Amendment, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area Amendment exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in Subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area Amendment shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
3. The portion of taxes mentioned in Subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Iowa Code Section 403.9(1), or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area Amendment.

4. As used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Section 9.19 – Ord. 804 – Nov. 20 Supp.)

9.20 2021 ADDITION TO THE SOUTHEAST URBAN RENEWAL AREA. The provisions of this section apply to the 2021 Addition to the Southeast Urban Renewal Area, the boundaries of which are set out below, approved by the City Council by resolution adopted on November 15, 2021.

Lot 2 of Lot 7 of Lot 1 in the Northwest Quarter of the Southwest Quarter, Lot 14 of Lot 1 in the Southwest Quarter of the Southwest Quarter, and Lot B of Lot 1 in the Northwest Quarter of the Southwest Quarter, all in Section 30, Township 98 North, Range 5 West of the 5th P.M., in the City of Waukon, Iowa, according to the plat thereof recorded on December 23, 2015, in Book A-5, pages 437-443, and the Affidavit of Roger Mohn filed on January 4, 2016, as Document #2016-3 redesignating Lot 11 of Lot 1 as Lot 14 of Lot 1 in the Southwest Quarter of the Southwest Quarter of Section 30-98-5.

The taxes levied on the taxable property in the 2021 Urban Renewal Area Addition each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the 2021 Urban Renewal Area Addition is located, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the 2021 Urban Renewal Area Addition, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in Subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the 2021 Urban Renewal Area Addition on the effective date of Ordinance No. 812, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the 2021 Urban Renewal Area Addition to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in
whole or in part, projects in the Urban Renewal Area, and to provide assistance for
low and moderate-income family housing as provided in Section 403.22, except that
taxes for the regular and voter-approved physical plant and equipment levy of a school
district imposed pursuant to Section 298.2 of the Code of Iowa, taxes for the
instructional support program levy of a school district imposed pursuant to Section
257.19 of the Code of Iowa and taxes for the payment of bonds and interest of each
taxing district shall be collected against all taxable property within the taxing district
without limitation by the provisions of this ordinance. Unless and until the total
assessed valuation of the taxable property in the 2021 Urban Renewal Area Addition
exceeds the total assessed value of the taxable property in such area as shown by the
assessment roll referred to in Subsection 1 of this section, all of the taxes levied and
collected upon the taxable property in the 2021 Urban Renewal Area Addition shall be
paid into the funds for the respective taxing districts as taxes by or for said taxing
districts in the same manner as all other property taxes. When such loans, advances,
indebtedness, and bonds, if any, and interest thereon, have been paid, all money
thereafter received from taxes upon the taxable property in the 2021 Urban Renewal
Area Addition shall be paid into the funds for the respective taxing districts in the
same manner as taxes on all other property.

3. The portion of taxes mentioned in Subsection 2 of this section and the special
fund into which that portion shall be paid may be irrevocably pledged by the City for
the payment of the principal and interest on loans, advances, bonds issued under the
authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the
City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. As used in this section, the word “taxes” includes, but is not limited to, all
levies on an ad valorem basis upon land or real property.

(Section 9.20 – Ord. 812 – Dec. 21 Supp.)
CHAPTER 10

URBAN REVITALIZATION AREA

10.01 DESIGNATION OF REVITALIZATION AREA. The area formed by contiguous real estate parcels with a legal description as follows:

   All real property situated within the Incorporated Municipal Limits of the City of Waukon, Iowa, as of January 1, 2019,

is hereby designated as a revitalization area under the provisions of Chapter 404, 2019 Code of Iowa.

   (Ord. 789 – Nov. 19 Supp.)
CHAPTER 15

MAYOR

15.01 TERM OF OFFICE. The Mayor is elected for a term of two (2) 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 the Police Department, 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.

   (Ord. 772 – Dec. 18 Supp.)

   (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 following officials:

*(Code of Iowa, Sec. 372.4)*

1. Appointments Not Requiring Council Approval:
   A. Mayor Pro Tem
   B. Council Committees (The Mayor shall appoint two members of the Council to the Finance Committee and two members to such other committees as the Mayor deems appropriate.)
   C. Tree Board

2. Appointments Requiring Council Approval:
   A. Police Chief
   B. Planning and Zoning Commission
   C. Zoning Board of Adjustment
   D. Library Board of Trustees
   E. Parks and Recreation Commission
   F. Airport Board

*(Subsection 2 – Ord. 772 – Dec. 18 Supp.)*

**15.04 COMPENSATION.** The salary of the Mayor is fifty-one hundred dollars ($5100.00) per year, payable in equal monthly installments. Effective
January 1, 2008, the salary of the Mayor is six thousand two hundred dollars ($6,200.00) per year, payable in equal monthly installments.

(Ord. 633 - Dec. 07 Supp.)

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

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

(Ord. 544 - Mar. 02 Supp.)

(Code of Iowa, Sec. 372.4)
CHAPTER 16

MAYOR PRO TEM

16.01 VICE PRESIDENT OF COUNCIL. The Mayor Pro Tem is 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 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])
CHAPTER 17
COUNCIL

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of two (2) Council Members elected at large and one Council Member from each of three (3) wards as established by the Code of Ordinances, elected for overlapping terms of four (4) years.

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 doing of work, or the making or 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 or by an officer, board or commission to whom the Council has expressly delegated authority to make contracts.
   
   (Code of Iowa, Sec. 384.100)
6. Employees. The Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by State law or the Code of Ordinances.

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of twenty-five thousand dollars ($25,000.00) on any one 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.

(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 regular meetings of the Council are on the first and third Mondays of each month at seven o’clock (7:00) p.m. in the Council Chambers at City Hall. If such day falls on a legal holiday, the meeting is held on the following day at the same time unless a different day or time is determined by the Council.

(Ord. 640 - Nov. 08 Supp.)
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 or mailed by ordinary U.S. Mail to the usual place of residence of each member of the Council. Notice of emergency meetings may be given telephonically. 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])


(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 and Deputy City Clerk
2. City Attorney
3. Airport Authority Board (two members)
4. Fire Marshal
5. Health Officer
6. Water Superintendent
7. Sanitary Sewer Superintendent
8. Street Superintendent
9. Zoning Administrator
10. Such other officers and employees as are deemed necessary

17.06 COMPENSATION. The salary of each Council member is thirty-five dollars ($35.00) for each regular or special meeting of the Council attended. Effective January 1, 2002, the salary of each Council member is fifty dollars ($50.00) for each regular or special meeting of the Council attended.

(Ord. 516 – Nov. 00 Supp.)

(Code of Iowa, Sec. 372.13[8])
CHAPTER 17A
CITY MANAGER

17A.01 APPOINTMENT, TERM OF OFFICE AND REMOVAL. The City Manager shall be appointed on the basis of merit with due regard to training, experience, administrative ability and general fitness for the office. The Manager is to be appointed by a majority vote (3 voting members) of the Council. Subject to any contractual rights set forth in any employment agreement, the Manager shall hold office at the pleasure of the Council and shall be subject to removal by a majority vote of the Council. In the event the office of City Manager is vacant or the City Manager is unable to perform the duties of the office, the Council shall temporarily appoint one or more other officers or employees of the City to perform the duties of the City Manager.  

(Ord. 772 – Dec. 18 Supp.)

17A.02 COMPENSATION. The Manager shall receive such annual salary as the Council shall from time to time determine by resolution, and payment shall be made bi-weekly from the treasury of the City, in the manner provided for paying other employees. The Manager shall also receive other benefits which the Council deems appropriate or as may be provided by any employment contract.

17A.03 POWERS AND DUTIES. The City Manager is the chief administrative officer of the City. The powers and duties of the Manager shall be as follows:

1. To supervise enforcement and execution of the City laws, except those laws, which by their nature, are ordinarily charged as criminal offenses by members of the Police Department. The Manager shall not have authority in setting of City policy. Rather, this employee shall coordinate the administration of City policies, services, functions and programs.  

(Ord. 772 – Dec. 18 Supp.)

2. To attend all meetings of the Council unless excused by the Council. The Manager shall attend meetings of boards and commissions of the City as required by the Council.

3. To recommend to the Council such measures as the Manager may deem necessary or expedient for the good government and welfare of the City.

4. To have the general supervision and direction of the administration of the City government; to appoint, with approval of the Council, a City Finance Director and such administrative assistants as shall be deemed advisable and to delegate to such assistants the authority to perform the powers and duties of the Manager with respect to specific subjects, including but not limited to zoning, subdivision plat review and signs.  

(Ord. 806 – Nov. 20 Supp.)
5. To supervise and direct the official conduct of all non-elected officers and department heads, and take active control of all departments of the City, except the Police Department and departments under the control of a duly appointed or elected administrative agency; supervise the office of the City Clerk; serve as personnel officer for the City with responsibilities to see that complete and current personnel records, including specific job descriptions, for all City employees are kept; develop and enforce high standards of performance by City employees; to prepare annual reviews for all department heads not reviewed by City boards and commissions; make recommendations for hiring, removal and discipline of City employees; suspend any employee for good cause until the next meeting of the Council; assure that City employees have proper working conditions; work closely with department heads to promptly resolve personnel problems or grievances; work closely with employees to assure that they receive adequate opportunities for training to maintain and improve their job-related knowledge and skills and act as the approving authority for requests by employees to attend conferences, meetings, training schools, etc., provided that funds have been budgeted for these activities.  

   (Ord. 772 – Dec. 18 Supp.)

6. To supervise the performance of all contracts for work to be done for the City, make all purchases of material and supplies, and see that such material and supplies are received, and are of quality and character called for by the contract, except for such matters as are within the purview of the Hospital Board of Trustees.

7. To have the power, under the direction of the Council and Mayor, to superintend and inspect all work and improvements done and made upon the streets, alleys, sewers, waterworks system and public grounds, except such work and improvements undertaken by the Hospital Board of Trustees.

8. To supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements, and undertakings of the City, except those of the Hospital Board of Trustees, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.

9. The City Manager, subject to the approval of the Council, shall make or cause to be made, with engineering assistance as shall be necessary, the necessary surveys, plats, drawings and estimates, together with suitable specifications for public works, and all necessary surveys of streets, alleys, and all public grounds, the lines of which shall be made in some substantial and permanent manner. Necessary plats of all surveys shall be filed with the office of the City Manager and recorded. The City Manager shall cause landmarks to be established either for surveying or grading of streets, the same to be accomplished by placing stones or other permanent monuments from which the grade or survey may be readily ascertained.

10. To cooperate with all administrative agencies and boards.
11. To summarily and without notice investigate the affairs and conduct of any department, agency, officer or employee under the Manager's supervision; or appoint a person to perform such duties.

12. To supervise the issuance and revocation of licenses and permits authorized by City law and the maintenance of these records.

13. To keep the Council fully advised of the financial and other conditions of the City and of its future needs.

14. To assist in the preparation of the annual City budget, in accordance with guidelines as may be provided by the Mayor and City Council and in coordination with department heads, and pursuant to state statutes, for review and approval by the Mayor and the City Council, and administer the budget as adopted by the City Council.

15. Keep informed concerning current federal, state, and county legislation and administrative rules affecting the City and submit appropriate reports and recommendations to the Mayor and City Council.

16. Keep informed concerning the availability of federal, state and local grant programs and make necessary application on behalf of the City to obtain these funds.

17. Represent the City in matters involving legislative and inter-governmental affairs as authorized and directed as to that representation by the Mayor and Council.

18. Act as public information officer for the City with the responsibility of assuring that the news media are kept informed about the operation of the City and all open meetings rules and regulations are followed.

19. Establish and maintain procedures to facilitate communications between citizens and City government to assure that complaints, grievances, recommendations, and other matters receive prompt attention by the responsible official, and to assure that all such matters are expeditiously resolved.

20. To promote economic development, commerce and job creation in the City through public and private sector cooperation, including Waukon Economic Development Cooperation and the Waukon Chamber of Commerce.

21. To approve certain expenditures without prior approval of the Council, especially those relating to urgent or emergency situations, as may be provided by resolution of the Council.

22. Participate as a representative of the City in contract bargaining with public employee unions, and see that the terms and conditions of these contracts are carried out.

23. Serve as zoning officer, subdivision plat review officer, sign officer and nuisance enforcement officer for the City.
24. Utilize the services of the City Attorney, City engineer, accounting firm or other contracted service providers to assist with relevant matters.

25. To perform other duties at the Council's direction.

17A.04 RESIDENCY. Within one year following the date of appointment, the Manager shall become a resident of the City of Waukon or establish a residence with reasonable proximity to the City so as to be available in emergency situations on short notice.

17A.05 PROHIBITED ACTIONS. The City Manager shall not take part in any elections for elected city officers other than by casting a vote.

(Ch. 17A - Ord. 762 – Nov. 17 Supp.)
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
18.14 City Funds
18.15 Oath Administration

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 year. The Clerk shall receive such compensation as established by resolution of the Council.

(Ord. 806 – Nov. 20 Supp.)

(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, and shall perform such other duties as may be specified by the Council.

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 claim.

(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:

†EDITOR’S NOTE: Ordinance No. 806, adopted on August 17, 2020, changed the title of the chapter from City Clerk-Treasurer to City Clerk.
1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

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

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 the Zoning Ordinance, the Fire Zone Ordinance and the Subdivision Ordinance and all amendments thereto, together with plats or maps showing any districts or zones established thereby, to the Allamakee County Recorder.

(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, the Deputy Clerk or the Clerk’s designee shall attend meetings of committees, boards and commissions and record the proceedings of such meetings. The Clerk shall preserve a correct record of such proceedings.

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

18.10 ISSUE LICENSES AND PERMITS. The Clerk shall keep a record of all licenses and permits issued by any municipal officer, board or commission, other than the Hospital Board of Trustees, which shall show date of issuance, official receipt number, if applicable, name of person to whom issued, term of license or permit and the 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 duties relating to elections in accordance with Chapter 376 of the Code of Iowa.

(Ord. 733 - Nov. 14 Supp.)

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. The City seal is circular in form, in the
center of which is the word “WAUKON” and around the margin of which are the words “CITY SEAL” and “ALLAMAKEE COUNTY, IOWA.”

18.14 CITY FUNDS. (Repealed by Ordinance No. 806 – Nov. 20 Supp.)

18.15 OATH ADMINISTRATION. The Clerk shall administer oaths of office to City officers required to give oaths.
CHAPTER 18A

CITY FINANCE DIRECTOR

18A.01 APPOINTMENT AND COMPENSATION. A City Finance Director shall be appointed by the City Manager, with the approval of the Council. The Finance Director shall receive such compensation as established by resolution of the Council.

18A.02 POWERS AND DUTIES: GENERAL. The Finance Director has the powers and duties as provided in this chapter and as otherwise provided in this Code of Ordinances and the law, and shall perform such other duties as may be specified by the Council. In the Finance Director’s absence or inability to act, the powers and duties of the Finance Director shall be performed by the Clerk.

18A.03 ATTENDANCE AT MEETINGS. The Finance Director shall attend all regular meetings of the Council and such special council meetings and meetings of committees, boards and commissions as directed by the Council.

18A.04 SPECIFIC POWERS AND DUTIES. The Finance Director shall perform the following duties relating to City funds:

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 Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.

3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

4. Special Assessments. Keep a separate account of all money received from special assessments.

5. Debt Service. Sign all evidence of indebtedness issued by the City when required by law, keep a register of all debts outstanding and record all payments of interest and principal.
6. Depository Resolutions. File copies of all original resolutions of the Council naming depositories of City funds and amendments thereto with the State Treasurer.

7. Administrative Agencies. Serve as treasurer of all City boards and commissions except the Hospital Board of Trustees.

8. Other Duties. Perform such other duties as may be assigned by law to a City treasurer.

(Ch. 18A – Ord. 806 – Nov. 20 Supp.)
CHAPTER 19

HEALTH OFFICER

19.01 OFFICE CREATED. There is hereby created the office of the City Health Officer.

19.02 APPOINTMENT. The City Health Officer shall be appointed by the Council.

19.03 TERM OF OFFICE. The term of office of the City Health Officer is one (1) year.

19.04 COMPENSATION. The City Health Officer shall receive such compensation as set by resolution of the Council, and such additional compensation for duties for which no compensation is specified as the Council may provide at the time of such appointment or the reasonable value of such services.

19.05 POWERS AND DUTIES. The duties of the City Health Officer are as follows:

1. To be medical and sanitary advisor to the Council.

2. To make, upon order of the Council, physical examinations of any person claiming to have received injuries for which the City may be liable. Upon order of the appointing authority, the Health Officer shall make physical examinations of employees or prospective employees of the City.

3. To inspect premises upon complaints received, upon request of proper officers, the Mayor, or Council, or upon his own initiative and at times required by ordinance or law for compliance with health regulations. The Health Officer shall, upon finding violations of law or ordinances, take action to correct such violations in accordance with the provisions for correction of violations established by law or ordinance.

4. To enforce the rules and regulations of the County Health Board within the City.
CHAPTER 20

CITY ATTORNEY

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for an indefinite term. 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])
CHAPTER 21

LIBRARY BOARD OF TRUSTEES

21.01 Public Library
21.02 Library Trustees
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21.01 PUBLIC LIBRARY. The public library for the City is known as the Robey Memorial 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 eight (8) resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member shall be appointed by the Allamakee County Board of Supervisors.

(Ord. 579 - Sep. 04 Supp.)

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of 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 resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Clerk shall serve as Board Treasurer, but shall not be a member of the Board.

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, rentals and fees 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 on behalf of the Library.

   (Code of Iowa, Ch. 661)

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

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

14. Budget Proposals. To annually prepare and submit to the finance committee of the Council a Library budget proposal for the next fiscal year at such time and in such form as required by the Council. The proposal shall include an estimate of revenue from sources other than allocation by the Council and indicate amounts proposed to be spent from such other sources and from existing balances in the Library Fund and the Library Trust Fund.

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)

3. 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
CHAPTER 21  LIBRARY BOARD OF TRUSTEES

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)
21.11 THEFT. No person shall take possession or control of property of the Library with the intent to deprive the Library thereof.

(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two (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)
CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Mayor, subject to approval by the Council, a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of five (5) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

(Ord. 780 – Dec. 18 Supp.)

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 two 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)

† EDITOR’S NOTE: Ordinance No. 780 adopted on December 17, 2018 identified that the term of office of the next member appointed after the effective date of Ordinance No. 780 shall be September 21, 2021.
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. Comprehensive Plan. To prepare a comprehensive plan for the City’s growth and development and submit such plan to the Council with its studies and recommendations, and for this purpose to make such surveys, studies, maps, plans or plats of the whole or any portion of the City and of any land outside the City which, in the opinion of the Commission, bears relation to such comprehensive plan; and to recommend to the Council, from time to time as conditions require, amendments, supplements, changes or modifications in the comprehensive plan.

5. Subdivision Plats. To perform all duties relating to the review and approval of subdivisions and subdivision plats imposed on the Commission as provided by Chapter 166 of this Code.

6. 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)

7. 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)

8. Budget Requests. The Commission shall submit annual budget requests at the time and in the manner directed by the Council.


10. Reports. The Commission shall make a report of its proceedings and the progress of its work to the Mayor and Council when requested.
CHAPTER 23

PARKS, RECREATION AND WELLNESS COMMISSION

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23.01 PARKS, RECREATION AND WELLNESS COMMISSION CREATED. An administrative agency designated as the Parks, Recreation and Wellness Commission is hereby created to plan and oversee municipal programs and facilities devoted to the enhancement of leisure time and wellness activities of the City's residents of all ages. The Commission shall also advise the Council on needed programs and facilities and, in general, encourage the City's residents to participate in such activities.

23.02 COMMISSION ORGANIZATION. The Commission shall consist of seven (7) members. Subject to the approval of the Council, the Mayor shall appoint five (5) members, at least four of whom shall be residents of the City. The Board of Directors of Allamakee Community School District shall appoint two (2) members, subject to Council approval. Members shall serve overlapping terms of three (3) years. At the time of initial appointments the Mayor shall designate two members to serve three year terms, one member to serve a two year term, and two members to serve one year terms. The appointments made by the School Board may be non-residents of the City, and at the time of the initial appointments the School Board shall designate one member to serve a three year term and the other member to serve a two year term. All appointments after the initial appointments shall be for a term of three (3) years. Vacancies shall be filled in the same manner as the original appointments. The Commission shall elect a chairperson, vice chairperson and secretary from among its members. The City Clerk shall serve as Commission Treasurer, but shall not be a member of the Commission. The Commission is subject to the Iowa open meetings law.

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

1. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations for the care, use, government and management of municipal facilities devoted to recreational and wellness activities and the business of the Commission, fixing and enforcing penalties for violations. Any such rules and regulations shall be consistent with this Code of Ordinances, state and federal law, and, to the extent applicable to the Waukon Wellness Center, the 28E Agreement to Establish and Operate Shared
Facilities and Property filed on July 3, 2006, as Document #2006-1912 in the office of the Allamakee County Recorder, and any subsequent amendments thereto.

2. Physical Plant. To have charge, control and supervision of the City Park, the Waukon Softball Complex, the West Athletic Fields and the Waukon Wellness Center and their appurtenances, fixtures and equipment.

3. Personnel. To employ a full time director who shall have day to day management responsibility for Commission facilities and programs. The director shall have authority to hire and discharge such assistants and employees as may be necessary for the proper management of Commission programs and facilities; provided, however, that the compensation of the director, assistants and employees shall be subject to approval by the Commission. The hiring and discharge of the director and any other full time employee shall be subject to approval by the Council.

4. Expenditures. To have exclusive control of the expenditure of all funds allocated for Park, Recreation and Wellness purposes by the Council, all moneys available by gift for Parks, Recreation and Wellness purposes, and all other moneys received by the Commission including membership fees, rentals and the proceeds from the sale of concessions and other merchandise, subject to the limitation of expenditures set forth in the annual budget approved by the Council. Expenditures shall be made at the direction of the Commission chairperson under procedures established by the Council for all departments of the City, with payments to be made by check written by the Clerk for claims and invoices submitted to and approved by the Commission.

5. Budget Proposals. To annually prepare and submit to the Finance Committee of the Council a Parks, Recreation and Wellness budget proposal for the next fiscal year at such time and in such form as required by the Council. The proposal shall include an estimate of revenues from sources other than allocation by the Council and indicate amounts proposed to be spent from such other sources and from existing balances in any funds or trust funds maintained by the Commission.

6. Gifts. To accept gifts of property, devises and bequests, including trust funds, and to expend the funds received from such gifts for the improvement of programs and facilities administered by the Commission.

7. Contracts. To enter binding contracts and agreements, concerning matters within the Commission's areas of responsibility and subject to the budgetary limitations imposed on it, without the prior approval of the Council.

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

9. 28E Agreement Compliance. To manage and operate the Wellness Center and its associated facilities at all times in such a manner consistent with the provisions of the 28E Agreement to Establish and Operate Shared Facilities
and Property filed on July 3, 2006, as Document #2006-1912 in the office of
the Allamakee County Recorder, and any subsequent amendments thereto.

10. Reports. The Commission shall make written reports to the Council of
its activities on a monthly and annual basis and at such other times as may be
requested by the Council. Its revenues and expenditures shall be reported
monthly by the Clerk in the manner of other departmental revenues and
expenditures, and a copy shall be provided to each member of the Commission
and in the Clerk’s report to the Council.

23.04 ATTENDANCE AT COUNCIL MEETINGS. The director hired by the
Commission shall attend all regular meetings of the Council and such special meetings
as may be requested.

23.05 COMPENSATION. The members of the Commission shall serve without
compensation but may receive reimbursement for actual expenses incurred in the
performance of their duties.

23.06 LIMITATIONS. In addition to all other limitations set forth in this chapter,
the Commission shall have no power to borrow money or pledge the credit of the City.

23.07 PENALTIES. Violation of a Commission rule may be cause for denial of use
of a facility or participation in a program, but any such denial which extends more
than one day may be appealed to the Council. The Council may adopt Commission
rules by ordinance, and the violation of any rule thus adopted may be prosecuted as a
misdemeanor or municipal infraction.

(Ch. 23 - Ord. 739 - Feb. 16 Supp)
CHAPTER 24

HOSPITAL BOARD OF TRUSTEES

24.01 ESTABLISHMENT OF BOARD. There is hereby established a Hospital Board of Trustees for the City.

24.02 TERM AND ELECTION OF MEMBERS. The Board of Trustees shall consist of five (5) members. Members of the Board shall reside within the hospital service area within the boundaries of the state, and shall be elected by the voters of the City, for four-year staggered terms, in such a manner that the term of office of no more than three (3) members shall expire at each regular City election. A vacancy on the Board shall be filled by appointment by the remaining members of the Board of Trustees unless within fourteen (14) days after the appointment there is filed with the City Clerk a petition which requests a special election to fill the vacancy. Trustees appointed to fill a vacancy or elected at special elections shall serve the unexpired terms of office or until their successors are elected and qualified. (Ord. 577 - Dec. 03 Supp.)

(Code of Iowa, Sec. 392.6)

24.03 COMPENSATION. The Trustees shall receive no compensation for their services but may be reimbursed for any cash expenditures actually made for personal expenses incurred as Trustee, but an itemized statement of all expenses for moneys paid out shall be made under oath by each of the Trustees and filed with the Secretary and allowed only by affirmative vote of the full board.

24.04 POWERS AND DUTIES. The Board of Trustees is granted all the powers and duties necessary for the management, control and government of the City Hospital of Waukon, Iowa, and the Board shall have and exercise the following specific powers and duties:

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

2. To purchase, condemn or lease a site for such public hospital and to provide and equip suitable hospital buildings.

3. To cause plans and specifications to be made and adopted for all hospital buildings and equipment and advertise for bids as required by
law for other municipal buildings before making any contract for the
construction of any such buildings or the purchase of such equipment.

4. To have general supervision and care of such grounds and
buildings.

5. To employ an Administrator and necessary assistants and
employees and to fix their compensation.

6. To have control and supervision over the physicians, nurses,
attendants and patients in the hospital.

7. To accept property by gift, devise, bequest or otherwise and if the
Board deems it advisable may at public sale sell or exchange any
property so accepted upon a concurring vote of the majority of all
members of the Board and apply the proceeds thereof or property
received in exchange therefor to any legitimate hospital purpose.

8. To receive and control all revenue derived from hospital
operations and grants and gifts from other sources and to determine the
expenditure of the same pursuant to rules established by the Trustees
without prior approval of the Council. The Trustees shall follow fiscal
rules and procedures applicable to Iowa municipalities except as
otherwise specifically required or permitted by State law or this Code.

9. To prepare an annual budget and submit the same to the Council
as provided in Section 7.05 of this Code.

The Board of Trustees shall not incur indebtedness or contract indebtedness or
impose indebtedness of the City or enter into a contract agreeing for the
expenditure of a sum of money where said money has not previously been
provided for said Board by the Council.

24.05 CONTRACTS. The contracts made by the Board of Trustees pursuant
to this chapter shall not be reviewable by the Council, nor shall said contracts
need the approval of the Council.
CHAPTER 25

TREE BOARD

25.01 TREE BOARD ESTABLISHED. Waukon Trees Forever, Inc., affiliated with The National Arbor Day Foundation, is hereby established as the Tree Board for the City. The Tree Board shall have three (3) members who shall be the Board of Directors of Waukon Trees Forever, Inc. The identity of members of the Board of Directors of Waukon Trees Forever, Inc., the terms of office and procedures for selection to and removal from said Board of Directors shall be determined in accordance with the Articles of Incorporation or Bylaws of said corporation. The Secretary of said corporation shall certify to the Clerk the identity of the initial Board of Directors and shall also promptly certify any subsequent changes in membership of the Board of Directors, and the Mayor shall thereafter promptly confirm such members of the Board of Directors to membership on the Tree Board. (Ord. 792 – Nov. 19 Supp.)

25.02 OFFICERS. The Tree Board shall have such officers who shall serve such terms of office as its members may determine, which officers and terms may be identical to those of the corporation. The Tree Board is a governmental body and shall comply with the Iowa Open Meetings Law in conducting its business. The members of the Tree Board shall serve without compensation.

25.03 DUTIES. The Tree Board shall prepare and, with the approval of the Council, implement an annual work plan to plant, care for and remove trees located on public property within the City.

25.04 ALLOCATION OF CITY EQUIPMENT AND PERSONNEL. City officers and employees shall cooperate with the Tree Board in the allocation of City equipment and personnel for purposes of plan implementation, subject to budgetary limitations.

25.05 COUNCIL APPROVAL REQUIRED. The Tree Board shall not plant or remove any trees on or from City property except pursuant to a plan approved by the Council, nor shall the Tree Board have any authority to incur any debt on behalf of the City, pledge the credit of the City, or enter into any contracts for or on behalf of the City without prior approval of the Council.
25.06 BUDGET REQUESTS. The Tree Board shall submit annual budget requests at the time and in the manner directed by the Council.
CHAPTER 26
AIRPORT BOARD

26.01 AIRPORT BOARD CREATED. There is hereby created a City Airport Board to operate the municipal airport facilities and advise the Council on all matters pertaining to airport facilities.

26.02 BOARD ORGANIZATION. The Board shall consist of three (3) members, who need not be residents of the City, and who shall be appointed by the Mayor with the approval of the Council for overlapping five-year terms. The Board shall, each year, elect from among its members a Chairperson, Vice Chairperson and Secretary. Members shall serve without compensation but may receive reimbursement for their actual expenses. Vacancies shall be filled in the same manner as original appointments.

(Ord. 591 - Nov. 05 Supp)

26.03 POWERS AND DUTIES. The Board shall have the following powers and duties, and such other powers and duties as may be incidental to the successful execution of the powers and duties herein expressly conferred:

1. To operate, manage and maintain the municipal facilities and property devoted to airport use.

2. To establish rules for the operation and use of municipal airport facilities and to recommend to the Council the adoption by ordinance of some or all of such rules as an aid to enforcement.

3. To establish, charge and collect fees and charges for the use of municipal airport facilities and property. All such revenue shall be deposited to the General Fund of the City.

4. To expend funds allocated for the Board by the Council, and to enter such contracts and engage such agents and consultants as may be necessary and convenient to carry out its duties, within the limits of the funds budgeted for the Board, all without prior Council approval; provided, however, the Board shall not hire any employees without prior approval of the Council.

5. To make a report to the Council in December of each year and at such other times as the Council may direct concerning its activities and
expenditures and to advise the Council from time to time concerning the condition of the municipal airport facilities and any plans and recommendations for improving or altering such facilities.

6. To cooperate with the Mayor and other City personnel in the allotment of time of City employees and equipment for airport maintenance and improvement purposes.

7. To submit annual budget requests at the time and in the manner directed by the Council.

26.04 REVENUES AND EXPENDITURES. All expenditures by the Board shall be made by checks written by the Clerk upon submission of invoices certified by the Chairperson following Board approval. All revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental revenues and expenditures, and a copy shall be provided to each member of the Board and in the Clerk’s report to the Council.

26.05 LIMITATIONS. In addition to all other limitations set forth in this chapter, the board shall have no power to borrow money, pledge the credit of the City, acquire or dispose of any real estate by gift, lease, sale or otherwise or to discontinue the use of the existing airport.

26.06 RULES AND PENALTIES. All rules adopted by the Board shall be posted at the airport and published in a newspaper with general circulation in the City. Violation of a Board rule which has been adopted by ordinance by the Council may be cause for denial of use of airport facilities but any denial which extends for more than one day may be appealed to the Council for a hearing. Violation of Board rules adopted by the Council by ordinance may also be prosecuted as a misdemeanor.
CHAPTER 27

AIRPORT AUTHORITY

27.01 CITY’S MEMBERSHIP IN AUTHORITY. The amendments to the Agreement for the Creation of the Allamakee County Airport Authority, necessitated by 1989 changes in Iowa Code Chapter 330A, are approved and the City shall continue its membership in said Authority under the terms of the Amended Agreement for the Creation of the Allamakee Airport Authority, the same to be effective on or about January 1, 1990.

27.02 EXECUTION OF AGREEMENT. The Mayor and the Clerk are hereby authorized and directed to promptly execute on behalf of the City said Amended Agreement for the Creation of the Allamakee County Airport Authority, a copy of which shall be maintained by the Clerk in the records of the City available for public inspection.

27.03 APPOINTMENT OF MEMBERS. The Council shall appoint two residents of the City who are not elected officials or full-time paid employees of the City to serve as members of the Airport Authority Board and shall likewise appoint Airport Authority Board Members in the future whenever a vacancy occurs in either of said positions, in accordance with the terms of said Amended Agreement.
CHAPTER 28

WELLNESS CENTER BOARD OF TRUSTEES

(Repealed by Ord. 739 - Feb. 16 Supp)
[The next page is 155]
CHAPTER 30

POLICE DEPARTMENT

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 shall receive such compensation as determined by resolution of the Council.

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

(Ord. 544 - Mar. 02 Supp.)

(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, 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, 804.18)
CHAPTER 31

RESERVE PEACE OFFICERS

31.01 Establishment of Force. A force of reserve peace officers is hereby established. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department’s representative, and will participate on a regular basis in the agency’s activities, including those of crime prevention and control, preservation of the peace and enforcement of the law.

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

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

31.04 Carrying Weapons. A member of the reserve force shall not carry a weapon in the line of duty until he or she has been approved by the Council and certified by the Iowa Law Enforcement Academy Council. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the Police Chief.
31.05 SUPPLEMENTARY CAPACITY. Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all the requirements of regular peace officers.

31.06 SUPERVISION OF OFFICERS. Reserve peace officers shall be subordinate to the Police Chief, shall not serve as peace officers unless under the direction of the Police Chief, and shall wear a uniform prescribed by the Police Chief, unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

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

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

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

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

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

(Ch. 31 - Ord. 638 - Dec. 07 Supp.)
CHAPTER 35
FIRE DEPARTMENT

35.01 **ESTABLISHMENT AND PURPOSE.** A fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency. **(Code of Iowa, Sec. 364.16)**

35.02 **ORGANIZATION.** The department consists of the Pioneer Fire Company and the Fire Chief. **(Code of Iowa, Sec. 372.13[4])**

35.03 **MEMBERSHIP.** The members of the department shall be the members of the Pioneer Fire Company as determined in accordance with its constitution and bylaws. The Fire Chief shall provide a list of current members to the Clerk in January of each year.

35.04 **TRAINING.** All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief. **(Code of Iowa, Sec. 372.13[4])**

35.05 **COMPENSATION.** Members of the department shall receive such compensation as the Council may provide. **(Code of Iowa, Sec. 372.13[4])**

35.06 **OFFICERS.** The officers of the Pioneer Fire Company, which shall include a Fire Chief and Assistant Fire Chief, shall be the officers of the department and shall be elected by the members in accordance with its constitution and bylaws. The Fire Chief shall provide the Clerk with a list of current officers and promptly report any changes.
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 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.

14. Budget Requests. Annually prepare and submit to the finance committee of the Council a fire department budget request for the next fiscal year at such time and in such form as required by the 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 **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)

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

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

35.11 **RURAL FIRE DISTRICT.** The department may also serve as the fire department of the Waukon Rural Fire District. Under policies, leases and other agreements approved by resolution of the Council, department personnel and the equipment and other property used by or belonging to the department may be utilized on a cooperative basis with the Waukon Rural Fire District.

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

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

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

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

(Code of Iowa, Sec. 100.41)

35.14 **FIRST RESPONDER SERVICE.** The department is authorized to provide first responder services and the accidental injury and liability insurance provided for herein shall include such services.
CHAPTER 36

FIRE MARSHAL

36.01 Office Created. There is hereby created the office of Fire Marshal of the City.

36.02 Appointment. The Fire Marshal shall be appointed by the Council.

36.03 Term of Office. The term of office of the Fire Marshal shall be at the pleasure of the Council.

36.04 Compensation. The Fire Marshal shall receive such compensation as established by Council resolution.

36.05 Duties. The Fire Marshal shall perform such duties as may be required by the Council.
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CHAPTER 40

PUBLIC PEACE

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 of 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 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. 636 – 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 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
   A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
   B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
   C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three (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 LOITERING. It is unlawful for any person to loaf or lounge on any public street or sidewalk within the City between the hours of twelve o’clock (12:00) midnight and four o’clock (4:00) a.m. without a reasonable excuse therefor.

40.07 DISTURBING THE PEACE. It is unlawful for any person to disturb the peace and quiet of any neighborhood, assembly, family, person, street or other private or public place by loud and unnecessary or disturbing noises, or by indecent, obscene or profane language, conduct or conversation, or by any other means, devices or acts.
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 Firearms
41.09 Throwing Missiles and Discharging Weapons
41.10 Urinating and Defecating
41.11 Fireworks
41.12 Drug Paraphernalia
41.13 Providing False Identification Information
41.14 Removal of an Officer’s Communication or Control Device

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 any person to use, erect or maintain barbed wire or electric fences to enclose land within the City limits except to restrain livestock in locations where the maintenance of livestock is not a violation of any of the provisions of this Code of Ordinances.

41.08 DISCHARGING FIREARMS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or other firearms of any kind within the City limits except by written consent of the Council or in the following cases and circumstances:

   A. By a peace officer in the performance of his or her duties;

   B. By any person in defense of person or property, but only under circumstances where the use of deadly force is permitted by the laws of the State of Iowa;

   C. By honor guards shooting blank ammunition at funeral or memorial services;

   D. With prior approval of the Council, by persons demonstrating or test firing firearms for exhibition or sale or purchase purposes but only at such specific dates, times and places as may be approved by Council.

2. No person shall intentionally discharge a firearm in a reckless manner.

41.09 THROWING MISSILES AND DISCHARGING WEAPONS. It is unlawful for any person to throw rocks, bricks or other missiles not commonly used for recreational purposes or to shoot or discharge arrows, guns powered by springs or compressed air, rubber guns, slingshots or other dangerous instruments on, into or across any street, sidewalk or other public property, or on, into or across any private property without the consent of the owner or person in lawful possession of private property.

(Code of Iowa, Sec. 364.12 [2])
CHAPTER 41  PUBLIC HEALTH AND SAFETY

41.10 URINATING AND DEFECATING. It is unlawful for any person to urinate or defecate on any streets or other public or private property except in a toilet or similar sanitary facility provided or authorized for such purposes by the owner or person in lawful possession of the property.

41.11 FIREWORKS.

1. It is unlawful for any person or entity to use or explode any consumer fireworks, including first-class consumer fireworks and second-class consumer fireworks as defined in Iowa Code Section 100.19.

2. It is unlawful to use or explode any display fireworks, as defined in Iowa Code Section 727.2, except as provided in this subsection. Display fireworks may be used or exploded without a permit at any incorporated county fair or any district fair receiving state aid. The City may, upon application in writing, grant a permit for the use or explosion of display fireworks by a City agency, a fair association, an amusement park and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

   A. Personal Injury: $250,000.00 per person.
   B. Property Damage: $50,000.00.
   C. Total Exposure: $1,000,000.00.

   (Code of Iowa, Sec. 727.2)  
   (Ord. 760 – Nov. 17 Supp.)

41.12 DRUG PARAPHERNALIA.

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

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

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

2. Controlled Substance Defined. As used in this section, “controlled substance” is defined as the term “controlled substance” is defined in the

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Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.

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

(Ord. 523 – Nov. 00 Supp.)

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

(Code of Iowa, Sec. 719.1A)

(Ord. 684 – Nov. 10 Supp.)

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

(Code of Iowa, Sec. 708.12)

(Ord. 720 – Sep. 13 Supp.)
CHAPTER 42
PUBLIC AND PRIVATE PROPERTY

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 private 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 tangible 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 45

ALCOHOL CONSUMPTION AND INTOXICATION

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

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

   (Code of Iowa, Sec. 123.47)

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

   (Code of Iowa, Sec. 123.47[3])

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

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

(Ord. 781 – Dec. 18 Supp.)

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. A person violating this subsection is guilty of a simple misdemeanor.

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 CONTAINER ON STREETS AND HIGHWAYS. (See Section 62.08 of this Code of Ordinances.)

[The next page is 229]
46.01 CURFEW. The Council has determined that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City and specifically to reinforce the primary authority and responsibility of adults responsible for minors; to protect the public from the illegal acts of minors committed after the curfew hour; and to protect minors from improper influences and criminal activity by individuals and by gangs that prevail in public places after the curfew hour.

1. Definitions. For use in this section, the following terms are defined:

   A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

   B. “Knowingly” means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable community standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

   C. “Minor” means any unemancipated person under the age of eighteen (18) years.

   D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to
providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

E. “Public place” includes shopping centers, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited, commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.

F. “Unemancipated” means unmarried and still under the custody or control of a responsible adult.

2. Curfew Established. A curfew applicable to minors is established and shall be enforced as follows:

A. Age 15 and Under. Unless accompanied by a responsible adult, no minor fifteen (15) years of age or younger shall be in any public place during the following times:

(1) On Sunday through Thursday, 10:00 p.m. to 5:00 a.m. of the following day;

(2) On Friday and Saturday, 11:00 p.m. to 5:00 a.m. of the following day.

B. Ages 16 and 17. Unless accompanied by a responsible adult, no minor sixteen (16) or seventeen (17) years of age shall be in any public place during the following times:

(1) On Sunday through Thursday, 11:00 p.m. to 5:00 a.m. of the following day;
(2) On Friday and Saturday, 12:00 midnight to 5:00 a.m. of the following day.

3. Exceptions. The following are exceptions to the curfew:
   A. The minor is accompanied by a responsible adult.
   B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
   C. The minor is present at or is traveling between home and one of the following:
      (1) Minor’s place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end of work;
      (2) Minor’s place of religious activity or, if traveling, within one hour after the end of the religious activity;
      (3) Governmental or political activity or, if traveling, within one hour after the end of the activity;
      (4) School activity or, if traveling, within one hour after the end of the activity;
      (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end of the activity.
   D. The minor is on an emergency errand for a responsible adult;
   E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor’s presence falls within one of the above exceptions.
5. Enforcement Procedures.
   A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver’s license, a peace officer on the street shall, in the first instance, use his or her best judgment in determining age.

   B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person’s own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

   C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

   D. Minor Without Adult Supervision. If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor’s parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.

6. Penalties.
   A. Responsible Adult’s Violation. Any responsible adult as defined in this section who knowingly allows the minor to violate any of the provisions of this section is guilty of a simple misdemeanor.

   B. Minor’s Violation. Any minor who violates any of the provisions of this section is guilty of a simple misdemeanor.

   (Ord. 559 – Dec. 02 Supp.)
46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person’s employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

(Code of Iowa, Sec. 709A.1)
CHAPTER 47
PARK REGULATIONS

47.01 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities. The enumeration of park rules in this chapter is not exclusive, and the Commission retains authority to adopt any rules not in conflict herewith which are reasonably necessary for the administration of parks and park facilities.

(Code of Iowa, Sec. 364.12)

47.02 DEFINITIONS. As used in this chapter, the following words and phrases shall have the following meanings, unless the context clearly requires otherwise:

1. “Commission” means the Parks and Recreation Commission of the City.
2. “Park” means any premises or facility administered by the Commission including, but not limited to, City Park in the south part of the City and the Softball Complex in the north part of the City adjacent to the County Fairgrounds.
3. “Park personnel” means a member of the Commission, any employee of the Commission, or any police officer while on duty in a park.

47.03 USE OF FACILITIES GENERALLY.

1. No person shall use any park facility during times when such facility has been reserved for use under a reservation system established by the Commission or when Commission-sponsored programs are scheduled, except for members of a group for whom the facility has been reserved or participants in the sponsored program.
2. No person shall sell or offer to sell, hire or lease any goods or services in a park without the permission of the Commission. Sale by concessionaires under contract with the Commission or by charitable,
religious or other nonprofit groups may be permitted upon determination by the Commission that the activity is compatible with public use of the park.

3. Any person violating any rule adopted by the Commission, whether or not such rule is set forth in this chapter, may be requested to leave the park by park personnel. Any such person who fails to leave the park promptly upon such request, or who returns to the park on the same day, commits trespassing in violation of Section 42.01 of this Code of Ordinances.

47.04 PUBLIC SAFETY.

1. Other than park personnel, no person shall kindle, build or maintain a fire in a park except in grills, fireplaces or campfire circles provided by the Commission or in camping stoves, ovens or grills used for camping or picnicking which do not involve the use of a fire directly on the ground.

2. No person shall kindle, build or maintain a fire in a park beneath the branches of a tree, within ten (10) feet of any tree or building or in any underbrush unless the fire is enclosed within a stove, oven or fireplace provided by the Commission for use in picnic cooking.

3. No person shall leave a fire unattended in a park or fail to extinguish it thoroughly when use is completed unless it is immediately used by another party when the site is vacated.

4. No person shall throw any stone, dirt, stick or other missile or obstruction upon any park ice rink.

5. No person shall enter any park ice rink when posted against use.

6. No person shall swim or wade in any park pond or lake.

47.05 CONDUCT.

1. No person shall use or consume any alcoholic liquor in any park.

2. No person shall use or consume wine or beer on park roads, in park parking areas or in or within 100 feet of the City Park softball field, the Aquatic Center or any designated children’s play area.

3. No person shall possess, use or consume wine or beer at the Softball Complex except wine or beer sold by the Commission during adult recreational activities.
4. No person shall use any loud, violent, obscene or profane language in any park or behave in a disorderly or obscene manner or commit any nuisance therein.

47.06 PARK PROPERTY AND WILDLIFE.
1. No person shall intentionally disturb, deface or damage any park building or improvement.
2. No person shall intentionally disturb or injure any bird or animal kept or found in any park.
3. No person, other than park personnel or those acting with the permission of park personnel, shall in any manner deface, injure or remove any tree, shrub or plant standing or growing in any park, or pick or destroy any flowers, fruits, nuts or seeds growing therein or in any flower beds on street boulevards or other locations maintained by park personnel.

47.07 VEHICLES AND ROADWAYS.
1. No person operating a motor vehicle in a park shall fail to observe and obey all traffic signs indicating speed limits, one-way travel, caution, stopping, parking or other traffic control requirements.
2. Except where otherwise posted, no person shall operate a motor vehicle on any park drive or roadway at a speed in excess of 15 miles per hour.
3. No person shall operate or park a motor vehicle, or ride or lead any horse, on any recreational trails or in any other portion of a park except upon established drives, roadways and parking areas or such other places as may be designated by the Commission in the case of special events. However, this subsection shall not apply to park personnel in the performance of their duties, traffic necessitated by construction activities and vehicles used to transport elderly or disabled persons.
4. Except as otherwise provided in this section, no person shall park a motor vehicle in a park except on the edges of drives and roads and in designated parking areas.
5. No person shall operate a motor vehicle having a weight in excess of any posted limit on any park drive or roadway, except for solid waste collection and construction vehicles.
6. No person shall operate a motor vehicle or snowmobile on any park ice rink, except for departmental equipment used for clearing snow.
7. No person shall leave a motor vehicle unattended in any park for more than forty-eight (48) continuous hours except in the case of a disabled vehicle whose owner has received permission from the Commission or its director. Any vehicle parked in violation of this subsection shall be deemed an abandoned vehicle under Chapter 80 of this Code of Ordinances.

8. No person shall operate a snowmobile in any park except on posted trails or operate a snowmobile at a speed in excess of any posted limit.

47.08 LITTERING. No person shall place, deposit, or throw any waste, refuse, trash or other foreign substance in any park area or receptacle except containers provided for that purpose.

47.09 PARK HOURS. No person, except park personnel performing their duties, registered campers, and participants in or spectators at sanctioned park activities, shall enter or remain within any park between the hours of ten o’clock (10:00) p.m. and six o’clock (6:00) a.m. For purposes of this section, a “sanctioned park activity” means an event involving the use of park facilities which is sponsored or otherwise approved in advance by the Commission or park personnel.

47.10 CAMPING. No person shall camp in any park except for registered campers in campgrounds designated by the Commission.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definitions
50.02 Nuisances Enumerated
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50.04 Nuisance Abatement
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50.10 Collection of Costs
50.11 Installment Payment of Cost of Abatement
50.12 Failure to Abate
50.13 Municipal Infraction Abatement Procedure

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

1. “Nuisance” means whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstacle to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property.

2. “Outdoor storage” means storage, placement or maintenance in any area not totally enclosed by structural walls and a roof.

3. “Property owner” means the contract purchaser if there is one of record, otherwise the record holder of legal title.

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

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.

   (Code of Iowa, Sec. 657.2[1])

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.

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

3. Impeding Passage of Navigable River. Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

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

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

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.

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

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 62.09)

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


8. 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.

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

9. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.

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

10. Grass, Weeds or Other Vegetation. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard, and the growth of grass, weeds or other vegetation in any lawn or yard, including public parking or boulevard areas abutting private property, to an average height in excess of six (6) inches. As used in this subsection, “grass, weeds or other vegetation” does not include trees, shrubs and tended gardens and flower beds or any vegetation on land used for agricultural purposes. (See also Chapter 151)

(Code of Iowa, 657.2[12])

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

(Code of Iowa, Sec. 657.2[13])
12. **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.

   *(Code of Iowa, Sec. 657.2[9]*)

13. **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.

   *(Code of Iowa, Sec. 657.2[6]*)

14. **Wood or Boards.** The outdoor storage of any pile or collection of wood or boards except neatly stacked, pre-cut wood on premises containing a wood-burning furnace, stove or fireplace and intended for use therein. This subsection does not apply to any commercial lumber yard or to any other premises on which there is regularly and lawfully conducted a commercial or industrial activity in which such wood or boards are used, consumed or sold.

15. **Broken or Missing Windows or Doors.** Any building or structure containing a broken or missing external window or door or any other opening exposing the interior to the elements and/or permitting access to the interior by birds and animals. This subsection does not apply to carports and other structures designed for use without total enclosure.

16. **Containers Catching Precipitation.** The outdoor storage of any container or other object capable of catching and retaining precipitation. This subsection does not apply to bird baths and other customary lawn ornaments and landscaping items.

17. **Outdoor Storage of Other Items.** The outdoor storage for a continuous period in excess of seventy-two (72) hours of the following items when not normally required in the otherwise lawful day-to-day use of the premises where located:

   A. Building or construction materials.
   
   B. Abandoned or inoperable vehicles.
   
   C. Vehicles without current registration.
D. Auto parts.
E. Vehicle tires (with or without rims).
F. Packing boxes.
G. Pallets.
H. Furniture not designed for outdoor use.
I. Household furnishings or equipment not designed for outdoor use, including carpeting, appliances and other typical household items.
J. Any other item, other than customary lawn ornaments, outdoor recreational equipment and landscaping items, not normally required in the otherwise lawful day-to-day use of the premises where located.

18. Attractive Nuisances. Any attractive nuisance dangerous to children in the form of abandoned or inoperable vehicles, abandoned, broken or neglected equipment or machinery, hazardous pools, ponds or excavations, and building material debris.

19. Unsightly and Deteriorated Conditions. Real property maintained in such condition as to be so defective, unsightly or in such condition of deterioration or disrepair that the same causes substantial depreciation of the property values of surrounding properties.

20. Walls, Fences and Hedges. Any wall, fence or hedge in such condition as to constitute a hazard to persons or property.

21. Habitat for Rats. Any real property or any building or structure thereon that has become the habitat of feral rats.

22. Other. Any other condition, activity or circumstance declared to constitute a nuisance under any other provision of this Code of Ordinances.

23. Swimming and Wading Pools. Pools of water maintained for recreational purposes as follows:

A. A pool of water more than 12 inches in depth located in the front yard of any lot in any residential district.

B. A pool of water more than 18 inches in depth which is unattended by an adult unless the following conditions exist:

   (1) The pool is protected from access by small children by a fence or sturdy cover or, in the case of an above
ground pool, no entry ladder or steps are attached or immediately adjacent; and

(2) Any electric devices used in connection with the pool are compliant with the provisions of the National Electric Code applicable to the type of pool in question.

This subsection shall not apply to pools of water not intended for human use, including pools maintained for landscaping or aesthetic purposes, nor to any pools or water courses located in any public park or golf course or on land used for agricultural purposes.

(Ord. 692 - Nov. 11 Supp.)

24. Dead or Dying Trees. Any dead or dying tree located on private property.

(Ord. 797 – Nov. 20 Supp.)

50.03 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)

50.04 NUISANCE ABATEMENT. Except as provided in Sections 50.04A and 50.08, whenever the Mayor or the Zoning Administrator finds that a nuisance exists, such officer shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice.

(Ord. 797 – Nov. 20 Supp.)

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

50.04A ABATEMENT OF VEGETATION NUISANCES. Whenever the Mayor or the Zoning Administrator finds that a vegetation nuisance, as defined in Subsection 50.02(10), exists, this ordinance shall serve as notice to the property owner of the duty to immediately abate the nuisance condition and no written notice is necessary. In such cases the officer shall cause the vegetation nuisance to be abated as provided in Section 50.09. For purposes of the abatement of a vegetation nuisance, a “reasonable time” for abatement shall be any time before the average height of the grass, weeds or other vegetation exceeds six (6) inches. Abatement of a vegetation nuisance shall be deemed to include the removal of the clipped vegetation from the subject property. Standard charges for the abatement of vegetation nuisances pursuant to this section shall be established by resolution of the City Council.

(Ord. 797 – Nov. 20 Supp.)

50.04B ABATEMENT OF NUISANCE TREES. The abatement of any nuisance trees on private property shall consist of the removal of the tree to an extent that it is flush with the surrounding ground and the removal from the property of the tree trunk and all tree branches, unless the trunk and larger
CHAPTER 50  NUISANCE ABATEMENT PROCEDURE

branches are promptly cut and neatly stacked on premises containing a wood-burning furnace, stove or fireplace and intended for use therein.

(Ord. 797 – Nov. 20 Supp.)

50.05 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.

50.06 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])

50.07 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.

50.08 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])

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

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

50.10 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])

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

(Ord. 711 - Oct. 12 Supp)

(Code of Iowa, Sec. 364.13)

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

50.13 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. A failure to abate a nuisance as defined in this chapter or a failure to perform an action required herein, following notice as provided in this chapter, shall constitute a municipal infraction and the requirements of this chapter may be enforced under the procedures applicable to municipal infractions in lieu of the abatement procedures set forth in this chapter.

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.
CHAPTER 51

JUNK VEHICLES ON PRIVATE PROPERTY

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

1. “Junk vehicle” means any vehicle located on private property within the corporate limits of the City which has one or more of the following characteristics:

   A. Broken Glass. Any vehicle with a broken or cracked windshield, window or headlight, 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, door or trunk handle, steering wheel, trunk top, tailpipe, wheel or tire.

   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 unlicensed vehicle which contains gasoline or any other flammable fuel.

   E. Inoperable. Any vehicle which lacks such parts or is in such condition of repair or maintenance as to render it presently inoperable.

   F. Not Being Operated. Any vehicle which has not been operated for a continuous period of nine (9) months or more.

   G. 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.

2. “Private property” means all real property other than streets and highways and other real property owned by the City.

3. “Police authority” means the Police Chief or any designee.
4. “Unlicensed vehicle” means any vehicle to which there is not attached a valid current license as required by the laws of the State.

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

51.02 PURPOSE. The purpose of this chapter is to protect the health, safety and welfare of the citizens of the City by providing for the elimination of the open storage of junk vehicles and machinery except in authorized places.

51.03 JUNK VEHICLES DECLARED A NUISANCE. Except as provided in Section 51.04, it is hereby declared that the parking, leaving or storage of a junk vehicle upon private property within the City constitutes a threat to the health, safety and welfare of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa and Section 50.01 of this Code of Ordinances.

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to the following:

1. A vehicle in an enclosed building.

2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the zoning ordinance of the City, when required in the day-to-day operation of said business enterprise.

3. A vehicle in an appropriate storage space or depository maintained by the City.

4. A vehicle placed or left on private property without the consent of the owner of the private property or the person in legal control thereof.

51.05 JUNK VEHICLE STORAGE PROHIBITED. Except as provided in Section 51.04, no person shall park, leave or store a junk vehicle on private property owned by said person or under said person’s legal control. The owner of private property or the person in legal possession of private property, if different that the owner, upon which a junk vehicle is located shall be deemed to be the owner of the junk vehicle and/or the person causing it to be parked, left or stored thereon.
CHAPTER 51  JUNK VEHICLES ON PRIVATE PROPERTY

51.06 NOTICE TO ABATE. Whenever the police authority finds a junk vehicle on private property within the City, such police authority shall deliver by certified mail, or by personal service a Notice to Abate to the following person or persons:

1. The last known registered owner of the vehicle;
2. The owner of the private property;
3. The occupant of the private property, if different from the owner.

This notice shall be deemed given when mailed or served to the last known addresses of the person or persons being notified.

(Section 51.06 – Ord. 811 – Dec. 21 Supp.)

51.07 CONTENTS OF NOTICE TO ABATE. The Notice to Abate shall:

1. Describe, to the extent possible, the year, make, model and color of the vehicle.
2. Describe the location of the vehicle.
3. State that the vehicle constitutes a nuisance under the provisions of this chapter.
4. State that the owner of the private property or the person in legal possession of the private property, if different from the owner, shall remove or repair the junk vehicle within twenty-one (21) days after the date of mailing.
5. State that any person ordered to abate the nuisance may request, in writing, within the 21-day limit, a hearing before the Council to determine whether a nuisance exists.
6. State that if the nuisance is not abated as directed or if no request for a hearing is made within 21 days, the City will abate the nuisance and assess the costs against the property owner or take other action to enforce compliance.

51.08 DUTY OF OWNER TO REMOVE OR REPAIR.

1. The owner of the private property or the person in legal possession of the private property, if different from the owner, upon which a junk vehicle is stored in violation of the provisions of Section 51.05 shall, within twenty-one (21) days after notice to abate is given, remove the vehicle to a lawful place of storage, otherwise dispose of it in a lawful manner, or repair the defects that cause such vehicle to violate the provisions of this chapter.
2. If a hearing is requested under Section 51.09, the duty of the private property owner or occupant to remove or repair the junk vehicle shall be suspended pending the decision of the Council following the hearing.

51.09 HEARING PROCEDURES. Any person ordered to abate a junk vehicle nuisance may request a hearing before the Council to determine whether a nuisance condition exists. A request for a hearing shall be made in writing and filed with the Clerk within the 21-day limit or the right to a hearing shall be considered waived and it will be conclusively presumed that the nuisance condition exists and it must be abated as ordered. The Council shall, within fifteen (15) days after the filing of the request for a hearing, fix the time and place of the hearing, which shall be within thirty (30) days after the filing of the request. At the conclusion of the hearing, the Council shall render a written decision as to whether a nuisance exists. If a nuisance is found to exist, it shall be ordered abated within a reasonable time as specified in the decision. The decision shall be final.

51.10 ENFORCEMENT. If the private property owner or occupant notified to abate a junk vehicle nuisance fails to abate as directed, the police authority may do one or more of the following:

1. Impound the junk vehicle in the same manner provided in the case of abandoned vehicles under Section 321.89 of the Code of Iowa.
2. File a municipal infraction complaint against the owner or occupant and request the imposition of a civil penalty and an abatement order.
3. File a criminal complaint against the owner or occupant.

51.11 ABATEMENT BY CITY. If the police authority impounds the junk vehicle as provided in Section 51.10, its owner may reclaim it within ten (10) days and it shall be released to the owner upon a showing of satisfactory proof of ownership and payment to the Clerk of all costs incurred by the City for the notice to abate, towing, preservation and storage, and upon a satisfactory showing that the owner has made arrangements to repair the vehicle or otherwise lawfully store or dispose of it. If not reclaimed within ten (10) days of impoundment, the vehicle shall be deemed abandoned and all procedures set forth in Section 321.89 of the Code of Iowa shall become applicable the same as if the junk vehicle had been originally impounded as an abandoned vehicle.

51.12 COLLECTION OF COST OF ABATEMENT. An accurate account of the expense incurred by the City in abating a junk vehicle nuisance, including mailing, towing, preservation and storage expenses, or charges shall be maintained by the police authority. To the extent that such total expense is not
recovered by the City from the proceeds of the sale of the vehicle, as provided in Section 321.89 of the Code of Iowa, the owner of the private property on which the junk vehicle was located shall be liable for such expense. The Clerk shall mail a statement of such unrecovered expense to the private property owner and, if the amount shown by the statement is not paid within one month, the Clerk shall certify such costs to the County Auditor for assessment and collection with, and in the same manner as, general property taxes.
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## CHAPTER 55

**ANIMAL PROTECTION AND CONTROL**

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

1. “Animal” means a nonhuman vertebrate.
   
   *(Code of Iowa, Sec. 717B.1)*

2. “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.

3. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.
   
   *(Code of Iowa, Sec. 717.1)*

4. “Owner” means any person owning, keeping, sheltering or harboring an animal.

### 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 in the following places or circumstances:

1. In such zoning districts as authorized in the City Zoning Ordinance, including the provisions relating to pre-existing nonconforming uses, but subject to all applicable limitations and requirements of the Zoning Ordinance. This subsection is intended to exclude from the prohibition all instances in which the keeping or maintenance of livestock in a particular location is in conformity with the Zoning Ordinance, including locations where the keeping or maintenance of livestock is a necessary part of or incident to a lawful use of the property.

2. Temporary keeping or maintenance within the City, for periods of time not exceeding two (2) consecutive hours, while such livestock is being transported in trucks or other motor vehicles.

3. Temporary use within the City, for periods of time not exceeding two (2) consecutive hours, for parade, demonstration or transportation purposes.

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

(Ord. 469 - Oct. 98 Supp)

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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

55.09 ANIMAL WARDEN. The Council may appoint an Animal Warden who shall work under the direction of the Police Chief and perform the services
incident to the impounding and disposition of animals as provided in this chapter, which appointment may be on a part-time basis.

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

(Code of Iowa, Sec. 351.33)

55.11 **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)

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

(Ord. 545 - Mar. 02 Supp.)

(Code of Iowa, Sec. 351.39)

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

55.14 **DISPOSITION OF ANIMALS.** When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner’s name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be
located within seven (7) days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.  

(Ord. 560 - Dec. 02 Supp.)  
(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS.

1. Dogs. The impoundment charges for any dog impounded are forty dollars ($40.00) each time a dog is impounded plus fifteen dollars ($15.00) for each 24 hour period or fraction thereof the dog remains impounded. If an impounded dog is not vaccinated, the Police Chief shall procure such vaccination and shall also require the payment of the actual vaccination expense as a condition of release from impoundment.

2. Fowl. The impoundment charges for any fowl impounded are fifteen dollars ($15.00) each time a fowl is impounded plus five dollars ($5.00) for each 24 hour period or fraction thereof the fowl remains impounded.

3. Other Animals. The impoundment charges for animals other than dogs or fowl are forty dollars ($40.00) each time an animal is impounded plus fifteen dollars ($15.00) for each 24 hour period or fraction thereof the animal remains impounded.

4. Collection of Impoundment Charges. All impoundment charges shall be paid to the Police Chief or his designee and shall be collected before an animal is released to its owner.  

(Ord. 643 – Nov. 08 Supp.)

55.16 DOG AND CAT WASTE. Any person who shall walk a dog or cat on public or private property shall provide for the disposal of the solid waste material excreted by the dog or cat by immediate removal of the waste except when the dog or cat is on the owner’s or keeper’s property and except for dogs properly trained and certified to assist persons with disabilities while such dogs are acting in such capacity.

(Ord. 583 - Nov. 05 Supp)

[The next page is 295]
CHAPTER 56
DANGEROUS AND Vicious ANIMALS

56.01 Definitions. For use in this chapter, the following terms are defined:

1. “Dangerous animal” means:
   A. Badgers, wolverines, weasels, ferrets, skunk and mink;
   B. Raccoons;
   C. Bats;
   D. Scorpions;
   E. Piranhas.

(Ord. 637 – Dec. 07 Supp.)

2. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period.

56.02 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.

It is the duty of the persons permitted to keep dangerous animals under the provisions of this section to report to the Police Department when any dangerous animal is found missing.

**56.03 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 Police Chief that a guard dog is on duty at said premises.

**56.04 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 Police Chief, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal 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 Police Chief 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 Police Chief shall order the person named in the complaint to safely remove such animal from the City, or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person...
keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Police Chief shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Police Chief 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 to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Police Chief.

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

(Ord. 637 – Dec. 07 Supp.)

56.05 VICIOUS DOGS. Notwithstanding any other provision of this chapter, no person owning, possessing, harboring or having the care of a vicious dog shall permit such animal to go unconfined upon the premises of
such person and shall not permit the dog to go beyond the premises unless the dog is securely leashed and muzzled.

1. For the purpose of this section, a “vicious dog” means:
   A. Any dog with a known propensity, tendency or disposition to attack, unprovoked, as evidenced by its habitual or repeated chasing, snapping or barking at human beings or domestic animals so as to potentially cause injury or to otherwise endanger their safety; or
   B. Any dog of that breed known variously as American Pit Bull Terrier, American Staffordshire Terrier, or Pit Bull Terrier; or
   C. Any dog of mixed breed or of other breeds than above listed which breed or mixed breed contains a strain of such breeds identifiable as such by a qualified veterinarian duly licensed in the State.

2. A vicious dog is “unconfined” unless such dog is:
   A. Securely confined in a dwelling house; or
   B. Completely enclosed in a locked, enclosed fence, pen or other structure having a height of at least six (6) feet; such pen or structure must have secure sides which are imbedded into the ground, if the bottom of the structure is not integrally connected to the structure. If the fence, pen or structure is less than six (6) feet in height, it must have a secure top in addition to securely imbedded sides.

3. A vicious dog is not required to be muzzled when shown in an American Kennel Club Show or a show sanctioned by the American Kennel Club or when securely confined in a private vehicle and inaccessible to persons other than those within the vehicle.

56.06 CERTAIN DOG BREEDS PROHIBITED.

1. Except as provided in Subsections 2 and 3, no person shall keep, shelter or harbor for any reason within the City any dogs of the following breeds:
   A. Staffordshire terrier breed of dog; or
   B. The American pit bull terrier breed of dog; or
   C. The American Staffordshire terrier breed of dog; or
   D. Rottweiler breed of dog; or
CHAPTER 56  DANGEROUS AND VICIOUS ANIMALS

E. Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier or Rottweiler.

(Subsection 1 – Ord. 807 – Nov. 20 Supp.)

2. Exempt from the prohibition set forth above shall be any dog of the breeds listed that is at least six months old and has been registered with the Chief of Police by November 1, 2010. Registration applications shall be made on a form supplied by the City and shall include the following requirements:

A. Proof of current rabies vaccination.
B. Proof of homeowners or renters liability insurance coverage held by the dog owner in an amount not less than $1,000,000.
C. Three (3) recent photos of the dog, one of the left profile, one of the right profile and one from the front.

If the registration requirements are satisfied, the Police Chief shall issue a certificate of registration for the dog which shall remain valid while the dog lives or remains in the City. Registration may not be transferred to any other dog, nor may ownership of a registered dog be transferred to anyone else who intends to keep the dog in the City. Registered dogs shall remain subject to all other animal control ordinances of the City.

(Ord. 680 – Nov. 10 Supp.)

3. Dogs that qualify as service animals under the Americans with Disabilities Act are exempt from the prohibition under this section provided:

A. The dog has been individually trained to do work or perform tasks for an individual with a disability. Dogs whose task consists of providing emotional support, therapy, comfort or companionship do not qualify as service animals.

B. The dog is under the control of its handler at all times and must be harnessed, leashed or tethered while in public places unless these devices interfere with the dog’s work or task or the person’s disability prevents use of these devices.

C. Based upon the particular dog’s actual behavior or history, it does not pose a direct threat to the health or safety of any person or other animal.

D. The dog has received all vaccinations required by law.

(Subsection 3 – Ord. 807 – Nov. 20 Supp.)
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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

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

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

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

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

6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.

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

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

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

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

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

(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 & 321.274)

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor. Application for a permit must be made at least forty-eight (48) hours in advance. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Exemptions. Parades conducted by any church or religious denomination or school and Memorial Day parades are exempt from the provisions of subsection 2 of this section.

4. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, any parade conducted under the exemptions granted in subsection 3 hereof, and the persons lawfully participating in such parades, shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.

5. Control By Police 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.
CHAPTER 61
TRAFFIC CONTROL DEVICES

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

(Code of Iowa, Sec. 321.255)

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


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.


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.

(Code of Iowa, Sec. 321.256)
CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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:

0. Section 321.17 — Misdemeanor to violate registration provisions.
0.1 Section 321.20B — Proof of security against liability.
1. Section 321.32 — Registration card, carried and exhibited; exception. (Ord. 686 – Nov. 10 Supp.)
4. Section 321.79 — Intent to injure.
4.1 Section 321.91 — Penalty for abandonment.
5. Section 321.98 — Operation without registration.
5.1 Section 321.99 — Fraudulent use of registration.
8. Section 321.180 — Instruction permits.
9. Section 321.180B — Graduated driver’s licenses for persons aged fourteen through seventeen.
10. Section 321.193 — Restricted licenses.
11. Section 321.194 — Special minor’s licenses.
12. Section 321.216 — Unlawful use of license and nonoperator’s identification card.

13. Section 321.216B — Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.

13.1 Section 321.216C — Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.

14. Section 321.219 — Permitting unauthorized minor to drive.

15. Section 321.220 — Permitting unauthorized person to drive.

16. Section 321.221 — Employing unlicensed chauffeur.

17. Section 321.222 — Renting motor vehicle to another.

18. Section 321.223 — License inspected.

19. Section 321.224 — Record kept.


21.1 Section 321.235A — Electric personal assistive mobility devices.

22. Section 321.247 — Golf cart operation on City streets.

23. Section 321.259 — Unauthorized signs, signals or markings.

23.1 Section 321.260 — Interference with devices, signs or signals – unlawful possession.

24. Section 321.262 — Damage to vehicle.

25. Section 321.263 — Information and aid.

26. Section 321.264 — Striking unattended vehicle.

27. Section 321.265 — Striking fixtures upon a highway.

28. Section 321.275 — Operation of motorcycles and motorized bicycles.

28.1 Section 321.276 — Use of electronic communication device while driving; text-messaging.  
(Ord. 686 – Nov. 10 Supp.)

29. Section 321.278 — Drag racing prohibited.

29.1. Section 321.281 — Actions against bicyclists.  
(Ord. 686 – Nov. 10 Supp.)

30. Section 321.288 — Control of vehicle; reduced speed.

31. Section 321.295 — Limitation on bridge or elevated structures.
32. Section 321.297 — Driving on right-hand side of roadways; exceptions.
33. Section 321.298 — Meeting and turning to right.
34. Section 321.299 — Overtaking a vehicle.
35. Section 321.302 — Overtaking on the right.
36. Section 321.303 — Limitations on overtaking on the left.
37. Section 321.304 — Prohibited passing.
37.1 Section 321.306 — Roadways laned for traffic.
38. Section 321.307 — Following too closely.
39. Section 321.308 — Motor trucks and towed vehicles; distance requirements.
40. Section 321.309 — Towing; convoys; drawbars.
41. Section 321.310 — Towing four-wheel trailers.
42. Section 321.312 — Turning on curve or crest of grade.
43. Section 321.313 — Starting parked vehicle.
44. Section 321.314 — When signal required.
45. Section 321.315 — Signal continuous.
46. Section 321.316 — Stopping.
47. Section 321.317 — Signals by hand and arm or signal device.
48. Section 321.319 — Entering intersections from different highways.
49. Section 321.320 — Left turns; yielding.
50. Section 321.321 — Entering through highways.
51. Section 321.322 — Vehicles entering stop or yield intersection.
52. Section 321.323 — Moving vehicle backward on highway.
52.1 Section 321.323A — Approaching certain stationary vehicles.
53. Section 321.324 — Operation on approach of emergency vehicles.
54. Section 321.329 — Duty of driver — pedestrians crossing or working on highways.
55. Section 321.330 — Use of crosswalks.
56. Section 321.332 — White canes restricted to blind persons.
57. Section 321.333 — Duty of drivers.
58. Section 321.340 — Driving through safety zone.
59. Section 321.341 — Obedience to signal of train.
60. Section 321.342 — Stop at certain railroad crossings; posting warning.
61. Section 321.343 — Certain vehicles must stop.
62. Section 321.344 — Heavy equipment at crossing.
62.1 Section 321.353 — Stop upon entering street from private driveway.
63. Section 321.354 — Stopping on traveled way.
64. Section 321.359 — Moving other vehicle.
65. Section 321.362 — Unattended motor vehicle.
66. Section 321.363 — Obstruction to driver’s view.
67. Section 321.364 — Preventing contamination of food by hazardous material.
68. Section 321.365 — Coasting prohibited.
69. Section 321.367 — Following fire apparatus.
70. Section 321.368 — Crossing fire hose.
71. Section 321.369 — Putting debris on highway.
72. Section 321.370 — Removing injurious material.
73. Section 321.371 — Clearing up wrecks.
74. Section 321.372 — School buses.
75. Section 321.381 — Movement of unsafe or improperly equipped vehicles.
75.1 Section 321.381A — Operation of low-speed vehicles.
76. Section 321.382 — Upgrade pulls; minimum speed.
77. Section 321.383 — Exceptions; slow vehicles identified.
78. Section 321.384 — When lighted lamps required.
79. Section 321.385 — Head lamps on motor vehicles.
80. Section 321.386 — Head lamps on motorcycles and motorized bicycles.
81. Section 321.387 — Rear lamps.
82. Section 321.388 — Illuminating plates.
83. Section 321.389 — Reflector requirement.
84. Section 321.390 — Reflector requirements.
85. Section 321.392 — Clearance and identification lights.
86. Section 321.393 — Color and mounting.
87. Section 321.394 — Lamp or flag on projecting load.
88. Section 321.395 — Lamps on parked vehicles.
89. Section 321.398 — Lamps on other vehicles and equipment.
90. Section 321.402 — Spot lamps.
91. Section 321.403 — Auxiliary driving lamps.
92. Section 321.404 — Signal lamps and signal devices.
93. Section 321.404A — Light-restricting devices prohibited.
94. Section 321.405 — Self-illumination.
95. (Repealed by Ord. 686 – Nov. 10 Supp.)
96. Section 321.408 — Back-up lamps.
97. Section 321.409 — Mandatory lighting equipment.
98. Section 321.415 — Required usage of lighting devices.
100. Section 321.418 — Alternate road-lighting equipment.
101. Section 321.419 — Number of driving lamps required or permitted.
102. Section 321.420 — Number of lamps lighted.
103. Section 321.421 — Special restrictions on lamps.
104. Section 321.422 — Red light in front.
105. Section 321.423 — Flashing lights.
106. Section 321.430 — Brake, hitch and control requirements.
107. Section 321.431 — Performance ability.
108. Section 321.432 — Horns and warning devices.
109. Section 321.433 — Sirens, whistles, and bells prohibited.
110. Section 321.434 — Bicycle sirens or whistles.
111. Section 321.436 — Mufflers, prevention of noise.
112. Section 321.437 — Mirrors.
113. Section 321.438 — Windshields and windows.
114. Section 321.439 — Windshield wipers.
115. Section 321.440 — Restrictions as to tire equipment.
116. Section 321.441 — Metal tires prohibited.
117. Section 321.442 — Projections on wheels.
118. Section 321.444 — Safety glass.
119. Section 321.445 — Safety belts and safety harnesses — use required.
120. Section 321.446 — Child restraint devices.
121. Section 321.449 — Motor carrier safety regulations.†
122. Section 321.450 — Hazardous materials transportation.
123. Section 321.454 — Width of vehicles.
124. Section 321.455 — Projecting loads on passenger vehicles.
125. Section 321.456 — Height of vehicles; permits.
126. Section 321.457 — Maximum length.
127. Section 321.458 — Loading beyond front.
128. Section 321.460 — Spilling loads on highways.
129. Section 321.461 — Trailers and towed vehicles.
130. Section 321.462 — Drawbars and safety chains.
131. Section 321.463 — Maximum gross weight.
133. Section 321.466 — Increased loading capacity - reregistration.

(Ord. 561 - Dec. 02 Supp.)

134. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.

(Ord. 782 - Dec. 18 Supp.)

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

†EDITOR'S NOTE: Code of Iowa Section 321.449B was added as Subsection 134 in December 2018.
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 shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. 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 FUNERAL PROCESSIONS. Upon the immediate approach of a funeral procession, the drivers of other vehicles, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

(Code of Iowa, Sec. 321.324A)

62.07 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.

62.08 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. (Ord. 499 – Dec. 99 Supp)

62.09 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.

62.10 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)

62.11 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.

62.12 ENGINE BACK-PRESSURE BRAKES PROHIBITED. No person operating a motor vehicle within the City shall use an engine back-pressure braking system or mechanical exhaust device designed to aid in the braking or deceleration of the motor vehicle. (Ord. 530 - Mar. 02 Supp.)

[The next page is 355]
CHAPTER 63

SPEED REGULATIONS

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.
   (Code of Iowa, Sec. 321.285 [1])

2. Residence or School District — Twenty-five (25) miles per hour.
   (Code of Iowa, Sec. 321.285 [2])

3. Suburban District — Forty-five (45) miles per hour.
   (Code of Iowa, Sec. 321.285 [4])

63.03  PARKS. A speed in excess of fifteen (15) miles per hour in any public park, 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 State Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit listed in Section 63.02 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)
1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.
   A. On Third Avenue NW from Fifth Street NW to Sixth Street NW between the hours of 7:30 a.m. and 4:00 p.m. on days when the schools are in session.

2. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.
   A. On Second Street SE from First Avenue SE to Second Avenue SE;
   B. On Third Avenue NW from Second Street NW to Ninth Street NW, except when and where the provisions of subsection 1A are applicable;

3. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.
   A. On Rossville Road from Fourth Avenue SE to a point 200 feet south of Seventh Avenue SE;
   B. On West Main from Third Street to Ninth Street;
   C. On Allamakee Street from Second Avenue to the Pump House at the County Fairgrounds;
   D. On Ninth Street NW from Second Avenue NW to mile marker 31;
   E. On Second Street SW from Eleventh Avenue SW to the north line of the Northeast Quarter of the Southwest Quarter of Section 31, Township 98 North, Range 5 West of the 5th P.M.

4. 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 Ninth Street SW from West Main Street to a point 500 feet south of Countryside Estates.
   B. On Rossville Road from a point 200 feet south of Seventh Avenue SE to the northeast corner of City Park.
   C. On East Main Street from a point 150 feet east of Fourth Street SE to a point 950 feet east of Fourth Street SE.
D. On West Main Street from a point 1,200 feet west of Ninth Street to the west corporate limit.

5. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.
   A. On Allamakee Street from the Pump House at the County Fairgrounds to Tenth Avenue NW.

6. 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 that part of Ninth Street SW between a point 500 feet south of Countryside Estates and a point 600 feet south of Eleventh Avenue SW which is located within the corporate limit of the City;
   B. On Ninth Street NW from mile marker 31 to the northwest corporate limit;
   C. On Rossville Road from the northeast corner of City Park to Thirteenth Avenue SE.
   D. On East Main Street from a point 950 feet east of Fourth Street SE to the east corporate limit.

7. 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. All of Logan Street.
   B. On West Main Street from Ninth Street west 1,200 feet.

(Ord. 635 - Dec. 07 Supp)

63.05 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

63.06 EMERGENCY VEHICLES. The speed limitations set forth in this chapter do not apply to authorized emergency vehicles when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public and the drivers thereof use an audible signaling device or a visual signaling device. This
provision does not relieve such driver from the duty to drive with due regard for the safety of others.

(Code of Iowa, Sec. 321.231)
CHAPTER 64

TURNING REGULATIONS

64.01 Authority to Mark

64.02 U-turns

64.01 AUTHORITY TO MARK. 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 by the State law 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.

(Code of Iowa, Sec. 321.311)

64.02 U-TURNS. It is unlawful for a driver to make a U-turn at the following locations:

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

1. Within the Business District;
2. At intersections where there are automated traffic signals;
3. On East Main, West Main, Allamakee Street, Spring Avenue and Rossville Road;
4. At any location other than intersections.
CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Intersections
65.02 Three-Way Stop Intersections
65.03 Four-Way Stop Intersections
65.04 School Stops
65.05 Stop at Exits to Public Alleys and Driveways
65.06 Stop When Traffic Is Obstructed
65.07 Yield to Pedestrians in Crosswalks
65.08 Official Traffic Controls
65.09 Yield Required

65.01 STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following intersections:

(Code of Iowa, Sec. 321.345)

1. First Avenue SW entering upon Rossville Road;
2. Second Avenue SW entering upon Rossville Road;
3. Third Avenue SW and SE entering upon Rossville Road;
4. Fourth Avenue SE entering upon Rossville Road;
5. Fifth Avenue SE entering upon Rossville Road;
6. Sixth Avenue SE entering upon Rossville Road;
7. Seventh Avenue SE entering upon Rossville Road;
8. City Park entering upon Rossville Road;
9. Thirteenth Avenue SE entering upon Rossville Road;
10. Seventh Avenue SE entering upon Fourth Street SE;
11. Third Avenue SE entering upon Fourth Street SE;
12. Fourth Street SE entering upon East Main;
13. First Avenue SE entering upon Fourth Street SE;
14. First Avenue SE entering upon Second Street SE;
15. Third Street NE entering upon East Main;
16. Second Street NE & SE entering upon East Main;
17. First Street NE entering upon East Main;
18. First Street SE entering upon East Main;
19. Clinton Street SE entering upon East Main;
20. First Avenue SE entering upon First Street SE;
21. First Street SE entering upon Second Avenue SE;
22. First Street SE entering upon Third Avenue SE;
23. Fourth Avenue SE entering upon First Street SE;
24. First Street SW & NW entering upon West Main;
25. Second Street SW & NW entering upon West Main;
26. Third Street SW & NW entering upon West Main;
27. Fourth Street SW entering upon West Main;
28. Fifth Street SW & NW entering upon West Main;
29. Sixth Street SW & NW entering upon West Main;
30. Seventh Street SW & NW entering upon West Main;
31. Eighth Street SW & NW entering upon West Main;
32. Tenth Street NW entering upon West Main;
33. Eleventh Street NW entering upon West Main;
34. First Avenue SW entering upon Ninth Street SW;
35. Second Avenue SW entering upon Ninth Street SW;
36. Third Avenue SW entering upon Ninth Street SW;
37. Fifth Avenue SW entering upon Ninth Street SW;
38. Countryside Est SW entering upon Ninth Street SW;
39. Eighth Street SW entering upon First Avenue SW;
40. Seventh Street SW entering upon First Avenue SW;
41. Sixth Street SW entering upon First Avenue SW;
42. Fifth Street SW entering upon First Avenue SW;
43. Fourth Street SW entering upon First Avenue SW;
44. Third Street SW entering upon First Avenue SW;
45. First Street SW entering upon First Avenue SW;
46. West Street SW entering upon First Avenue SW;
47. West Street SW entering upon Second Avenue SW;
48. First Street SW entering upon Second Avenue SW;
49. Second Street SW entering upon Second Avenue SW;
50. Third Street SW entering upon Second Avenue SW;
51. Fourth Street SW entering upon Second Avenue SW;
52. Fifth Street SW entering upon Second Avenue SW;
53. Sixth Street SW entering upon Second Avenue SW;
54. Seventh Street SW entering upon Second Avenue SW;
55. Eighth Street SW entering upon Second Avenue SW;
56. Eighth Street SW entering upon Third Avenue SW;
57. Seventh Street SW entering upon Third Avenue SW;
58. Sixth Street SW entering upon Third Avenue SW;
59. Fifth Street SW entering upon Third Avenue SW;
60. Fourth Street SW entering upon Third Avenue SW;
61. Third Street SW entering upon Third Avenue SW;
62. Second Street SW entering upon Third Avenue SW;
63. First Street SW entering upon Third Avenue SW;
64. West Street SW entering upon Third Avenue SW;
65. Fourth Avenue SW entering upon Eighth Street SW;
66. Fourth Avenue SW entering upon Fifth Street SW;
67. Eighth Street SW entering upon Fifth Avenue SW;
68. Seventh Street SW entering upon Fifth Avenue SW;
69. West Street SW entering upon Sixth Avenue SW;
70. Second Street SW entering upon Sixth Avenue SW;
71. First Avenue NW & NE entering upon Allamakee Street;
72. Second Avenue NW & NE entering upon Allamakee Street;
73. Third Avenue NW & NE entering upon Allamakee Street;
74. Fourth Avenue NW & NE entering upon Allamakee Street;
75. Fifth Avenue NE entering upon Allamakee Street;
76. Sixth Avenue NE entering upon Allamakee Street;
77. Seventh Avenue NE entering upon Allamakee Street;
78. Eighth Avenue NE & NW entering upon Allamakee Street;
79. Tenth Avenue NW entering upon Allamakee Street;
80. Seventh Avenue NE entering upon First Street NE;
81. Repealed by Ord No. 602;
82. Fifth Avenue NE entering upon First Street NE;
83. Fourth Avenue NE entering upon First Street NE;
84. Third Avenue NE entering upon First Street NE;
85. Second Avenue NE entering upon First Street NE;
86. First Avenue NE entering upon First Street NE;
87. First Avenue NE entering upon Second Street NE;
88. Second Avenue NE entering upon Second Street NE;
89. Third Avenue NE entering upon Second Street NE;
90. Fourth Avenue NE entering upon Second Street NE;
91. Fifth Avenue NE entering upon Second Street NE;
92. Sixth Avenue NE entering upon Second Street NE;
93. Sixth Avenue NE entering upon Third Street NE;
94. Fifth Avenue NE entering upon Third Street NE;
95. Fourth Avenue NE entering upon Third Street NE;
96. Third Avenue NE entering upon Third Street NE;
97. Second Avenue NE entering upon Third Street NE;
98. First Avenue NE entering upon Third Street NE;
99. First Avenue NW entering upon Ninth Street NW;
100. Second Avenue NW entering upon Ninth Street NW;
101. Third Avenue NW entering upon Ninth Street NW;
102. Sixth Avenue NW entering upon Ninth Street NW;
103. Eighth Avenue NW entering upon Ninth Street NW;
104. Prairie Avenue NW entering upon Ninth Street NW;
105. Eleventh Street NW entering upon Third Avenue NW;
106. Tenth Street NW entering upon Third Avenue NW;
107. Eighth Street NW entering upon Third Avenue NW;
108. Seventh Street NW entering upon Third Avenue NW;
109. Repealed by Ord No. 562;
110. Fifth Street NW entering upon Third Avenue NW;
111. Fourth Street NW entering upon Third Avenue NW;
112. Third Street NW entering upon Third Avenue NW;
113. Second Street NW entering upon Third Avenue NW;
114. First Street NW entering upon Third Avenue NW;
115. Fifth Avenue NW entering upon Eighth Avenue NW;
116. Fifth Street NW entering upon Eighth Avenue NW;
117. Fourth Street NW entering upon Eighth Avenue NW;
118. Second Street NW entering upon Eighth Avenue NW;
119. Sixteenth Avenue NW entering upon Green Valley Road;
120. First Avenue NW entering upon First Street NW;
121. Third Street NW entering upon First Street NW;
122. First Avenue NW entering upon Sixth Street NW;
123. Seventh Street NW entering upon First Avenue NW;
124. Eighth Street NW entering upon First Avenue NW;
125. Eighth Street NW entering upon Second Avenue NW;
126. Seventh Street NW entering upon Second Avenue NW;
127. Second Avenue NW entering upon Sixth Street NW;
128. Second Avenue NW entering upon Fifth Street NW;
129. Fourth Street NW entering upon Second Avenue NW;
130. Third Street NW entering upon Second Avenue NW;
131. First Street NW entering upon Second Avenue NW;
132. First Street NW entering upon Third Avenue NW;
133. Third Street NW entering upon Third Avenue NW;
134. Fourth Street NW entering upon Third Avenue NW;
135. Fifth Street NW entering upon Third Avenue NW;
136. Sixth Street NW entering upon Third Avenue NW;
137. Seventh Street NW entering upon Third Avenue NW;
138. Eighth Street NW entering upon Third Avenue NW;
139. Repealed by Ord No. 602;
140. Repealed by Ord. No. 572;
141. Fifth Avenue NW entering upon Second Street NW;
142. Fourth Avenue NW entering upon Second Street NW;

143. Third Avenue NW entering upon Second Street NW;

144. Second Avenue NW entering upon Second Street NW;

145. First Avenue NW entering upon Second Street NW;

146. First Street NW entering upon Fourth Avenue NW;

147. First Avenue NW entering upon Fifth Street NW;

148. Fifth Street NW entering upon First Avenue NW from the north;

149. Fourth Street NW entering upon First Avenue NW.

150. Eleventh Avenue SW entering upon Ninth Street SW.  
     (Ord. 475 - Oct. 98 Supp)

151. Eleventh Avenue SW entering upon Rossville Road.  
     (Ord. 536 - Mar. 02 Supp.)

152. Donald Lane entering upon Ninth Street SW.  
     (Ord. 540 - Mar. 02 Supp.)

153. Fourth Avenue SW entering upon Third Street SW.  
     (Ord. 554 - Dec. 02 Supp.)

154. Second Street SW entering upon Sixth Avenue SW.

155. Second Street SW entering upon Eleventh Avenue SW.

156. Repealed by Ord No. 602.

157. Sixth Avenue SW entering upon Second Street SW.

158. Fifth Avenue SW entering upon Second Street SW.

159. First Avenue SW entering upon Fifth Street SW.

160. Third Avenue SW entering upon Fifth Street SW.

161. Third Avenue SW entering upon Second Street SW.

162. Second Street NW entering upon Third Avenue NW.

163. Third Avenue NW entering upon Fifth Street NW.  
     (Ord. 568 - Dec. 03 Supp.)

164. Repealed by Ord No. 602.

165. First Street SE entering upon Second Avenue SE.  
     (Ord. 580 - Sep. 04 Supp.)

166. Logan Street entering upon Ninth Street SW.  
     (Ord. 587 - Nov. 05 Supp)

167. Second Street NW entering upon Tenth Avenue NW.
168. Northview Estates Mobile Home Park entrance entering upon Fourth Street NW.
169. Fifth Avenue NW entering upon Fifth Street NW.
170. First Street NE entering upon Sixth Avenue NE.
171. Fourth Street NW entering upon Fifth Avenue NW.
   (Subsections 167 – 171 - Ord. 602 - Dec. 06 Supp)
172. Thirteenth Avenue SW entering upon Ninth Street SW.
   (Ord. 714 - Sep. 13 Supp)
173. Park Place Court entering upon Second Street SW.
   (Ord. 727 - Nov. 14 Supp)

**65.02 THREE-WAY STOP INTERSECTIONS.** Every driver of a vehicle shall stop before entering the following designated three-way stop intersections:
1. Intersection of Third Avenue NW and Sixth Street NW.

**65.03 FOUR-WAY STOP INTERSECTIONS.** Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:
   (Code of Iowa, Sec. 321.345)
1. Intersection of Second Avenue NW and Tenth Street NW.
2. Intersection of Second Street SW and First Avenue SW.
3. Intersection of West Main Street and Ninth Street West.
4. Intersection of Second Avenue NW and Eleventh Street NW.
5. Intersection of First Avenue NW and Fifth Street NW.
   (Ord. 659 – Dec. 09 Supp.)
6. Repealed by Ord No. 602.
7. Intersection of Second Avenue SW and Second Street SW.
   (Ord. 513&515 – Nov. 00 Supp.)
8. Repealed by Ord No. 602.

**65.04 SCHOOL STOPS.** At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
   (Code of Iowa, Sec. 321.249)
1. Intersection of West Main Street and Second Street West;
2. Intersection of West Main Street and Sixth Street West;
3. Intersection of Third Avenue SW and Second Street SW;
4. Intersection of Third Avenue NW and Tenth Street NW;
5. Intersection of Ninth Street NW and Third Avenue NW.

65.05 STOP AT EXITS TO PUBLIC ALLEYS AND DRIVEWAYS. The driver of a vehicle emerging from a public alley, public parking lot or other public driveway shall stop such vehicle immediately prior to driving onto the sidewalk area, if a sidewalk exits, or onto the street, if there is no sidewalk, and shall yield the right-of-way to all pedestrian traffic on the sidewalk and to all vehicles approaching on the street which the driver’s vehicle is entering.

(Ord. 504 – Nov. 00 Supp.)

65.06 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.

65.07 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 a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

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

(Code of Iowa, Sec. 321.256)
1. Intersection of Main and Spring Avenue;
2. Intersection of Main and Allamakee Street.

(Ord. 562 - Dec. 02 Supp.)

65.09 YIELD REQUIRED. Every driver of a vehicle shall yield the right of way to any vehicle on the intersecting street which has entered the intersection or which is approaching so closely as to constitute an immediate hazard as follows:

1. Thirteenth Street NW. Vehicles traveling north on Thirteenth Street NW shall yield at Third Avenue NW.

(Ord. 645 - Nov. 08 Supp.)

[The next page is 385]
CHAPTER 66
LOAD AND WEIGHT RESTRICTIONS

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 City ordinance over those streets 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 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)

66.04 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, shall, except as provided in subsection 2, travel over or upon the following streets within the City and none other:

   (Code of Iowa, Sec. 321.473)

   A. East Main and West Main;
   B. Iowa State Highways 9 and 76 within the City;
C. Fourth Street SE from East Main to Seventh Avenue SE;
D. Seventh Avenue SE from Fourth Street SE to Rossville Road;
E. Eighth Avenue NW from Allamakee Street to Highway 76 North;
F. Ninth Street SW.
G. Eleventh Avenue SW from Rossville Road (Highways 9 and 76) to Ninth Street SW. (Ord. 538 - Mar. 02 Supp.)

2. Deliveries Off Truck Route. Subject to the restrictions contained in subsection 3 of this section, such motor vehicles may travel over streets other than truck routes under the following circumstances:

A. When traveling to and from the vehicle’s fixed terminal located within the City. A fixed terminal includes the regular place of business of the owner or operator of the vehicle at which the presence of the vehicle is required for purposes of loading or unloading cargo or passengers, maintenance, repair or refueling, and a place for the lawful storage or parking of the vehicle when not in use. A fixed terminal includes the personal residence of the owner or operator of a motor vehicle, but only if the weight of said motor vehicle, when loaded or empty, is less than ten (10) tons.

B. When traveling to or from a scheduled or definite stop within the City for the purpose of loading or unloading cargo or passengers.

C. When traveling to or from a place of business within the City at which the vehicle is to be repaired, re-fueled or otherwise serviced, other than the personal residence of the owner or operator of the vehicle or any location zoned “R-1”, “R-2” or “R-3”.

3. Any motor vehicle weighing five (5) tons or more, when loaded or empty, traveling on streets other than truck routes as authorized in subsection 2 shall proceed over or upon the designated truck routes to the point nearest its destination and return to the nearest truck route by the most direct course over non-truck route streets. If, due to the presence of parked vehicles or other street obstructions, it is not reasonably possible to follow the most direct course to or from a permitted destination and the nearest truck route, such motor vehicle shall follow the most direct course over which the motor vehicle may safely be operated. In such
situations, the burden of proof shall be on the operator or owner of the motor vehicle to establish that the most direct course could not reasonably be used.

4. 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)

For purposes of this section, a self-propelled vehicle and any trailer towed by it shall collectively be deemed a single motor vehicle, and the combined weight of such self-propelling vehicle and trailer shall be the weight of such motor vehicle.
CHAPTER 67

PEDESTRIANS

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.
CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. West Street shall be southbound only from West Main Street to First Avenue SW;
2. The north-south alley in Block 9, Waukon Original Plat, shall be southbound only;
3. The east 100 feet of the alley in Block 10, Waukon Original Plat, shall be westbound only;
4. Sixth Street NW shall be northbound only from First Avenue NW to Third Avenue NW;

(Ord. 717 - Sep. 13 Supp)

5. (Repealed by Ord. 658 – Dec. 09 Supp.)
6. Spring Avenue, on the west side of the median, shall be southbound only from West Main Street to First Avenue SW.

(Ord. 470 - Oct. 98 Supp.)
CHAPTER 68

ONE-WAY TRAFFIC

○ ○ ○ ○ ○ ○ ○

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CHAPTER 69
PARKING REGULATIONS

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. On the east side of West Street SW from West Main to First Avenue SW;
2. On the east side of First Street NW from West Main to the alley;
3. On the south side of Second Street SE in front of Veterans Memorial Hospital;
4. On both sides of the east-west portion of First Street SE;
5. On the west side of Spring Avenue from West Main to First Avenue SW.
6. On the east side of First Street SE from a point 249 feet south of the intersection of First Street SE and East Main Street extending south to a point 329 feet south of the intersection of First Street SE and East Main Street.  

(Ord. 794 – Nov. 19 Supp.)

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 twenty-four (24) hours 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 except as follows:
   A. Abandoned Driveways. If the owner or occupant of property previously served by a driveway erects a gateless fence or other obstruction that prevents use of the driveway it shall be deemed abandoned and parking shall be permitted in front of it.
   B. Vacant Properties. If a property that is served by more than one driveway entrance has been vacant for six (6) months or more, the Street Superintendent may designate all but one of such driveways for parking by paint, signs or otherwise and parking shall be permitted in front of the designated driveways until the property is no longer vacant.

   (Ord. 620 - Dec. 06 Supp)

6. Intersection. Within, 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. 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])

10. 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])

11. 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])

12. Signs Prohibiting. At any place where official signs prohibit stopping or parking.

13. 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)

14. 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])

15. 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])

16. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

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

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

1. Nonresidential Off-street Facilities. Nonresidential off-street parking facilities shall set aside persons with disabilities parking spaces in accordance with the following:

   A. Municipal off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as persons with disabilities parking spaces, rounded to the nearest whole number of persons with disabilities parking spaces. However, such parking facilities
CHAPTER 69

PARKING REGULATIONS

having ten (10) or more parking spaces shall set aside at least one persons with disabilities parking space.

(Code of Iowa, Sec. 321L.5[3a])

B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing persons with disabilities parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for persons with disabilities parking spaces in a facility exceeds sixty percent (60%) during normal business hours, the entity shall provide additional persons with disabilities parking spaces as needed.

(Code of Iowa, Sec. 321L.5[3b])

C. An entity providing off-street nonresidential parking as a lessor shall provide a persons with disabilities parking space to an individual requesting to lease a parking space, if that individual possesses a persons with disabilities parking permit issued in accordance with Section 321L.2 of the Code of Iowa.

(Code of Iowa, Sec. 321L.5[3c])

D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide persons with disabilities parking spaces as stipulated below:

<table>
<thead>
<tr>
<th>TOTAL PARKING SPACES IN LOT</th>
<th>REQUIRED MINIMUM NUMBER OF PERSONS WITH DISABILITIES PARKING SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 to 25</td>
<td>1</td>
</tr>
<tr>
<td>26 to 50</td>
<td>2</td>
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<tr>
<td>51 to 75</td>
<td>3</td>
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<td>76 to 100</td>
<td>4</td>
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<td>101 to 150</td>
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<tr>
<td>501 to 1000</td>
<td>†</td>
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<tr>
<td>1001 and over</td>
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</tr>
</tbody>
</table>

† Two percent (2%) of total
‡ Twenty (20) spaces plus one for each 100 over 1000

(Code of Iowa, Sec. 321L.5[3d])
2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one persons with disabilities parking space as needed for each individual dwelling unit in which a person with a disability resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate persons with disabilities parking spaces in the visitors’ parking area in accordance with the table contained in subsection (1)(D) of this section.

\[(IAC, 661-18.7[321L])\]

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2\%) of the total parking spaces within each business district shall be designated as persons with disabilities parking spaces.

\[(Code of Iowa, Sec. 321L.5[4a])\]

4. Other Spaces. Any other person may set aside persons with disabilities parking spaces on the person’s property provided each parking space is clearly and prominently designated as a persons with disabilities parking space. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

\[(Code of Iowa, Sec. 321L.5[3e])\]

5. 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 motor vehicle not displaying a persons with disabilities parking permit;

   B. Use by an operator of a motor 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 motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

6. Wheelchair Parking Cone. A person issued a persons with disabilities parking permit under Section 321L.2 of the Code of Iowa who uses a wheelchair due to a disability that renders the person
permanently unable to walk, may park in a persons with disabilities parking space, or a parking space not designated as a persons with disabilities parking space, and reserve up to an eight foot space adjacent to the motor vehicle for the purpose of exiting and entering the motor vehicle if all of the following conditions are met:

A. The person places a wheelchair parking cone within eight feet of the motor vehicle’s entry.

B. The person displays the persons with disabilities parking permit in the motor vehicle as described in Section 321L.4 of the Code of Iowa.

C. The motor vehicle and the wheelchair parking cone do not obstruct an aisle, street, or roadway so that other vehicles are unable to pass through the aisle, street, or roadway.

D. The parking space is provided by the state, a political subdivision of the state, or an entity providing nonresidential parking.

E. The person carries in the motor vehicle a copy of the statement from a physician, physician’s assistant, advanced registered nurse practitioner, or chiropractor which accompanied the person’s application for persons with disabilities registration plates under Section 321.34 of the Code of Iowa or other persons with disabilities parking permit under Section 321L.2 of the Code of Iowa and which indicates the person is permanently unable to walk. The person shall show the copy of the statement to any peace officer upon request.

7. Improper Use of Cone. A person issued a persons with disabilities parking permit shall comply with the requirements of subsection 6 when using a wheelchair parking cone.

8. Interference with Cone. A person shall not interfere with a wheelchair parking cone properly placed under subsection 6.

(Ord. 518 – Nov. 00 Supp.)

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. Second Street NE on the east side;
2.  Second Street NW on the east side from West Main to Eighth Avenue NW;
3.  Third Avenue NW on the north side from Allamakee Street West to Ninth Street NW;
4.  Third Avenue NE on the north side from Allamakee Street East to Fourth Street NE;
5.  Third Avenue SW on the north side from Rossville Road West to Ninth Street SW;
6.  East Main Street on the south side from First Street NE to the corporation line;
7.  Allamakee Street on both sides from Third Avenue North to Eighth Avenue NW;
8.  Third Avenue NW on the south side from Second Street NW to Ninth Street — between the hours of 7:30 a.m. to 8:30 a.m. and from 3:00 p.m. to 4:00 p.m.;
9.  First Street SE on the west side from East Main Street South to the City Parking Lot;
10. Sixth Avenue NE on the north side from Allamakee Street to Second Street NE;
11. Fourth Avenue NW on the north side from Allamakee Street to Second Street NW;
12. Second Avenue NE on the north side from Allamakee Street to First Street NE;
13. West Main Street on the south side from West Street east to Spring Avenue;
14. Allamakee Street on the west side from the public alley between First Avenue NW and Main Street south to Main Street;
15. Rossville Road on the east side from Thirteenth Avenue SE to Second Avenue SE;
16. Ninth Street SW on the east side from First Avenue SW north to West Main Street;
17. Sixth Street NW on the east side between First Avenue NW and Third Avenue NW - during school hours. For purposes of this subsection, “school hours” means between the hours of 7:30 a.m. and 4:00 p.m. on those days during which the public schools are in session;

(Ord. 658 – Dec. 09 Supp.)
18. Sixth Street NW on the west side between First Avenue NW and Third Avenue NW between the hours of 7:30 a.m. and 8:30 a.m. and between the hours of 3:00 p.m. and 4:00 p.m. on days when the public schools are in session;  
(Ord. 641 - Nov. 08 Supp.)

19. (Repealed by Ord. 658 – Dec. 09 Supp.)

20. Spring Avenue on the east side of the median from West Main to First Avenue SW;  

21. Rossville Road on the west side from Fourth Avenue SE to Thirteenth Avenue SE;  

22. West Street SW on the west side from West Main to First Avenue SW;  

23. West Street SW on the east side from First Avenue SW to Third Avenue SW;  

24. First Street SW on the east side from First Avenue SW to Third Avenue SW — during school hours, as defined above;  

25. First Avenue NW on the south side from Allamakee Street to First Street NW.  

26. The east two parking spaces on the north side of First Avenue NE between Allamakee Street and the alley - between the hours of 10:30 a.m. and 1:00 p.m. on Monday through Friday each week.  
(Ord. 471 - Oct. 98 Supp)

27. Eleventh Avenue SW on both sides from Rossville Road (Highways 9 and 76) west to Ninth Street SW.  
(Ord. 534 - Mar. 02 Supp.)

28. First Avenue NW, on the south side, from Third Street NW to Fifth Street NW.  
(Ord. 553 - Dec. 02 Supp.)

29. First Avenue NW, on the south side, from Sixth Street NW to Seventh Street NW.  

30. Second Avenue NW, on the south side, from Third Street NW to Fifth Street NW.  

31. Second Avenue NW, on the south side, from Sixth Street NW to Seventh Street NW.  
(Ord. 555 - Dec. 02 Supp.)

32. Seventh Street SW, on both the east side and the west side, between Second Avenue SW and Third Avenue SW.  
(Ord. 570 - Dec. 03 Supp.)

33. First Avenue SE, on the north side, between Second Street SE and Fourth Street SE.  

34. Second Street SE, on the east side, between East Main Street and First Avenue SE.  
(Ord. 613 - Dec. 06 Supp.)

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35. Second Street SW, on the east side, from the intersection with Second Avenue SW north 132 feet during school hours. For purposes of this subsection, “school hours” means between the hours of 7:30 a.m. and 4:00 p.m. on those days during which St. Patrick’s school is in session.  
(Ord. 646 - Nov. 08 Supp.)

36. Fifth Street NW, on the east side, for a distance of 275 feet extending north from the intersection with Third Avenue NW.

37. Fifth Street NW, on the west side, for a distance of 275 extending north from the intersection with Third Avenue NW, between the hours of 7:30 a.m. and 8:30 a.m. and between the hours of 3:00 p.m. and 4:00 p.m. on days when the public schools are in session.  
(Ord. 687 – Nov. 10 Supp.)

38. Second Avenue SE, on the north side.

39. Third Street NE, on the east side.  
(Ord. 731 – Nov. 14 Supp.)

40. First Street SE between Second Avenue SE and Third Avenue SE, on both sides.  
(Ord. 740 – Feb. 16 Supp.)

41. The entire length of the West side of Thirteenth Street NW.

42. First Street SE, on the West side, extending from the intersection with Second Avenue SE north 175 feet.

43. First Avenue NE, on the south side, from Allamakee Street east 83 feet to the public alley.  
(Ord. 757 – Nov. 17 Supp.)

44. Eighth Street NW, on the west side, from Third Avenue NW north to the end of Eighth Street NW.  
(Ord. 777 – Dec. 18 Supp.)

45. Second Avenue SW, on the north side, from First Street SW west to Second Street SW.  
(Ord. 791 – Nov. 19 Supp.)

69.09 ALL NIGHT PARKING PROHIBITED. No person shall park a vehicle on any street between the hours of two o’clock (2:00) a.m. and six o’clock (6:00) a.m. from November 15 until the following April 1, with the following exceptions:

1. Clinton Street, subject to the provisions of Section 69.17;

2. The west side of Fifth Street SW between West Main Street and the northeast corner of Lot K in Lot 1 of Block 11 in Scott Shattuck’s Third Addition.

3. The west side of Seventh Street SW extending south from West Main Street a distance of 40 feet.  
(Ord. 802 – Nov. 20 Supp.)

69.10 TRUCK AND HEAVY VEHICLE PARKING.

1. No person shall stop, stand or park a motor vehicle weighing five (5) tons or more, loaded or empty, on any street at any time except in the following circumstances:

   A. When necessary to avoid conflict with other traffic;
B. In compliance with the directions of a peace officer or traffic control device;
C. When actually engaged in loading or unloading; or
D. On those portions of the streets designated as truck routes which are outside the downtown area of the City.

2. The owner or any other person employing or otherwise directing the driver of any such vehicle shall not require or knowingly permit the stopping, standing or parking of such vehicle in any manner contrary to this section.

3. For purposes of this section, a self-propelled vehicle and any trailer towed by it shall collectively be deemed a single motor vehicle. Any trailer designed to be towed by any self-propelled vehicle shall, when not attached to a self-propelled vehicle, also be deemed a motor vehicle.

69.11 PARKING LIMITED TO TEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than ten (10) minutes between the hours of eight o’clock (8:00) a.m. and nine o’clock (9:00) p.m. in the following designated areas:

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

1. Four parking spaces in the south end of the municipal parking lot located on the south side of First Avenue between Allamakee Street and First Street;
2. The first and last parking spaces on the east side of First Street SW between West Main and the alley;
3. The first parking space on the south side of East Main between Clinton Street and First Street SE;
4. The first angle parking space on the east side of West Street SW between West Main and First Avenue SW;
5. The last four parking spaces on the north side of West Main between First Street NW and Second Street NW;
6. One parking space in the middle of the east side of Allamakee Street between Main and First Avenue NE.

69.12 PARKING LIMITED TO TWO HOURS. (Repealed by Ord. 766 – Dec. 18 Supp.)

69.13 SNOW EMERGENCIES. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation throughout the duration of the snow or ice storm and the seventy-two (72) hour period after cessation of such storm except as above provided upon streets which have been fully opened. Such a ban shall be of uniform application and the Police Chief is directed to
widely publicize the requirements, using all available news media, in early November each year. Where predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation and the parking rules thereunder. Such emergency may be extended or shortened when conditions warrant.

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

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

69.15 PARKING ON PRIVATE PARKING LOTS OR GROUNDS. It is unlawful for any driver or owner to park a motor vehicle on any private parking lot or grounds in violation of any restriction or prohibition the owner thereof may establish with respect to such private lot or grounds, and when properly posted with signs advising the public of such restrictions, it is a violation of this section for the driver or owner of a vehicle to fail to comply therewith. The owner shall, at the owner’s expense, install signs which would advise the public concerning said restrictions. All such signs must meet the requirements for size, legibility and installation as required by the City or State. No charges will be filed by any officer under this section unless a complaint is first filed with the Police Department of the City or any officer thereof by the owner, tenant, manager or employee and agent thereof.

69.16 SPECIAL PARKING PERMIT IN BUSINESS DISTRICT. No object other than a self-propelled vehicle shall be parked on public property in the business district of the City or on public property in front of or adjacent to any business or commercial establishment in the City without a permit. The permit to park such an object shall be obtained from the Police Department of the City prior to parking said object, and the cost of the permit is $1.50 per day, payable at the time of obtaining the permit.

69.17 CLINTON STREET PARKING. During the period from November 15 to the following April 1, parking is prohibited on Clinton Street, except one-side-only parking on alternate days, as follows:

1. Parking is permitted on the east side of Clinton Street from 6:00 p.m. on odd-numbered days to 6:00 p.m. on the following day during such period.

2. Parking is permitted on the west side of Clinton Street from 6:00 p.m. on even numbered days to 6:00 p.m. on the following day during such period.

69.18 LOADING ZONES. No person shall park, stand or stop a vehicle in a parking space designated by signs as a loading zone except when actively engaged in loading or unloading the vehicle and in no case for longer than a continuous period of twenty (20) minutes.
69.19 PARKING RESTRICTIONS FOR INDIVIDUAL PARKING SPACES.
In addition to the parking regulations specifically set forth in this chapter, no parking, limited time parking, persons with disability parking and loading zone restrictions may be established for individual vehicle parking spaces on public streets and alleys and in municipal parking lots as follows:

1. Police Chief Recommendations. The Chief of Police may, from time to time, make written recommendations to the Council regarding the establishment or elimination of vehicle parking restrictions for individual parking spaces.

2. Council Action. The Council, upon receipt of such recommendations, shall approve or disapprove the same by motion.

3. Signage. If approved by the Council, the Chief of Police shall, with the assistance of the street superintendent, arrange for the placement or removal of official signs advising the public of the parking restrictions applicable to individual parking spaces. Any new parking restrictions shall become effective upon placement of official signs. Where appropriate and surface conditions permit, the street superintendent shall also cause no parking spaces to be marked with yellow paint and persons with disabilities parking spaces to be painted in accordance with state regulations.

4. Conflicting Regulations. The vehicle parking restrictions established by other sections of this chapter shall not be modified by the procedure authorized by this section.

(Ord. 497 – Dec. 99 Supp.)
[The next page is 425]
CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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 and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

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

(Code of Iowa, Sec. 805.6, 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations 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 twenty-five dollars ($25.00) for all violations except snow route parking violations and improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars ($5.00). The simple notice of a fine for snow route parking violations is fifty dollars ($50.00), and 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. 800 – Nov. 20 Supp.)

(Code of Iowa, Sec. 321.236 [1a] & 321L.4(2))
CHAPTER 70  TRAFFIC CODE ENFORCEMENT PROCEDURES

EDITOR'S NOTE: A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. (See Section 69.14.)

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 Twenty-four Hour Period. When any vehicle is left parked for a continuous period of twenty-four (24) hours or more. If the
owner is found, 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])
CHAPTER 73

ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES

73.01 PURPOSE. The purpose of this chapter is to permit the operation of all-terrain vehicles and off-road utility vehicles on certain streets and alleys in the City, as authorized by Iowa Code Section 321.247, as amended, and regulating their use. This chapter applies whenever an all-terrain vehicle or off-road utility vehicle is operated on any street or alley or on any other public or private property, subject to the restrictions stated herein.

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

1. "All-Terrain Vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight of not more than 1,000 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

2. "Off-Road Utility Vehicle" or "UTV" means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight of not more than 1,900 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

3. "Street" means only that portion of the street between the curbs or, in the absence of curbs, only the traveled portion of the street.

73.03 TRAFFIC CODE APPLIES. Except as modified by this chapter, every person operating an ATV or UTV upon a street or alley shall be granted all of the rights and privileges and shall be subject to all the duties and obligations applicable to the driver of a vehicle, including the financial responsibility provisions of Iowa Code Chapter 321A, and to the laws of the State declaring the rules of the road applicable to the driver of the vehicle, except as to those provisions which by their nature can have no application.

73.04 RIDING ON ATVS AND UTVS. A person operating an ATV or UTV shall not ride other than on a permanent seat regularly attached thereto. All occupants must
be in a seated position at all times with no more passengers than the seat(s) are designed to accommodate. No one may be standing on the vehicle or sitting on another passenger while the vehicle is in operation. The operator and all passengers of a UTV shall wear the seatbelt or harness as so equipped by the manufacturer.

73.05 OPERATION PERMITTED. ATVs and UTVs may be operated upon the street or alleys of the City by persons who are at least sixteen (16) years of age, subject to the restrictions set forth in this chapter.

73.06 PROHIBITED AREAS.

1. ATVs and UTVs shall not be operated in any public park, cemetery or other public grounds or on any public sidewalk.
2. No ATV or UTV shall be operated on private property without the express consent of the owner.
3. ATVs and UTVs shall not be operated upon any City street which is a primary road extension except for crossing primary road extensions at locations hereafter provided. Iowa Highways 9 and 76 are hereby designated as primary road extensions in the City. ATVs and UTVs may cross such primary road extensions only at the following locations:
   A. Third Avenue NW and 9th Street NW.
   B. Prairie Avenue/8th Avenue NW and 9th Street NW.
   C. Third Avenue SW/SE and Hwy 9 & 76 Rossville Road.
   D. Third Avenue NE/NW and Allamakee Street
   E. Second Street NW/SW and West Main Street.

73.07 EXCEPTIONS. The prohibition set forth in Section 73.06 shall not apply to the following:

1. The operation is incidental to the vehicle's use for the purpose of surveying by a licensed engineer or land surveyor.
2. Operation of the vehicle by an employee or agent of a political subdivision of the State of Iowa or a public utility.
3. The operation by an employee or agent of a public agency for the purpose of providing emergency services or rescue.

73.08 PRIMARY ROAD EXTENSION CROSSINGS. The crossing of primary road extensions shall be made in compliance with the following requirements:

1. The crossing is made at an angle of approximately ninety degrees to the direction of the street or alley or highway and at a place where no obstruction prevents a quick and safe crossing; and
2. The ATV or UTV is brought to a complete stop before crossing the street or alley or highway; and
3. The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

73.09 OTHER REQUIREMENTS AND RESTRICTIONS. A person shall not drive or operate an ATV or UTV on a public street or alley:

1. Unless the person has a valid driver's license and valid proof of insurance in compliance with Iowa Code Chapter 321A.
2. Unless the ATV or UTV is registered with the Iowa Department of Natural Resources (IDNR) and properly displays a registration decal.
3. Unless the operator is at least eighteen years of age, without a valid IDNR certification for the ATV or UTV Vehicle Education Course in his or her possession.
4. In a careless, reckless or negligent manner so as to endanger the person or property of another or cause injury or damage thereto.
5. Between sunset and sunrise as established by the National Weather Service.
6. At a speed in excess of fifteen (15) miles per hour.
7. Without a lighted headlight and taillight rendering clearly discernable persons and vehicles at a distance of 500 feet ahead and behind, or without a minimum of one mirror to allow visibility at a minimum distance of 200 feet behind the vehicle.

73.10 VIOLATIONS. The operation of an ATV or UTV in violation of any of the provisions of this chapter may be charged either against the operator of the ATV or UTV or against the owner if the ATV or UTV is operated with the consent of the owner. In the case of violations by the operator of a ATV or UTV operating with the consent of the owner, the violation shall be charged against the owner only as a municipal infraction and the following civil penalty shall be applicable:

1. In the case of a first violation - $100.00.
2. For the second violation within one calendar year - $200.00.
3. In the event of a third violation within one calendar year - $300.00.

(Ch. 73 - Ord. 758- Nov. 17 Supp.)
CHAPTER 74

GOLF CARTS

74.01 Purpose. The purpose of this chapter is to permit the operation of golf carts on certain street or alleys in the City, as authorized by Iowa Code Section 321.247, as amended, and regulating their use. This chapter applies whenever a golf cart is operated on any street or alley or on any other public or private property, subject to the restrictions stated herein.

74.02 Traffic Code Applies. Except as modified by this chapter, every person operating a golf cart upon a street or alley shall be granted all of the rights and privileges and shall be subject to all the duties and obligations applicable to the driver of a vehicle and to the laws of the State declaring the rules of the road applicable to the driver of the vehicle, except as to those provisions which by their nature can have no application.

74.03 Riding on Golf Carts. A person operating a golf cart shall not ride other than on a permanent regular seat attached thereto. All occupants must be in a seated position at all times with no more passengers than the seat(s) are designed to accommodate. No one may be standing on the vehicle or sitting on another passenger while the vehicle is in operation.

74.04 Operation Permitted. Golf carts may be operated upon the street or alleys of the City by persons who are at least sixteen (16) years of age, subject to the restrictions set forth in this chapter.

74.05 Prohibited Areas.

1. Golf carts shall not be operated in any public park, cemetery or other public grounds or on any public sidewalk.
2. No golf cart shall be operated on private property without the express consent of the owner.
3. Golf carts shall not be operated upon any City street which is a primary road extension except for crossing primary road extensions at locations hereafter provided. Iowa Highways 9 and 76 are hereby designated as primary road extensions in the City. Golf carts may cross such primary road extensions only at the following locations:
   A. Third Avenue NW and 9th Street NW.
   B. Prairie Avenue/8th Avenue NW and 9th Street NW.
C. Third Avenue SW/SE and Hwy 9 & 76 Rossville Road.
D. Third Avenue NE/NW and Allamakee Street.
E. Second Street NW/SW and West Main Street.

74.06 PRIMARY ROAD EXTENSION CROSSINGS. The crossing of primary road extensions shall be made in compliance with the following requirements:

1. The crossing is made at an angle of approximately ninety degrees to the direction of the street or alley or highway and at a place where no obstruction prevents a quick and safe crossing; and
2. The golf cart is brought to a complete stop before crossing the street or alley or highway; and
3. The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

74.07 DRIVER'S LICENSE REQUIRED. Any person operating a golf cart upon any City street or alley shall possess a valid Iowa Driver's license.

74.08 EQUIPMENT. Golf carts operated upon any street or alley shall be equipped with a slow-moving vehicle sign and a bicycle safety flag at all times during operation, and shall have adequate brakes.

74.09 HOURS OF OPERATION. Golf carts may be operated on City streets or alleys only from sunrise to sunset.

74.10 REGISTRATION. Golf carts operated on City streets or alleys are not required to be registered under Iowa Code Chapter 321; however, the operator of a golf cart is subject to the financial responsibility provisions of Iowa Code Chapter 321A.

74.11 SPEED LIMIT. No golf cart shall be operated on any City street or alley at a speed in excess of fifteen (15) miles per hour.

74.12 VIOLATIONS. The operation of a golf cart in violation of any of the provisions of this chapter may be charged either against the operator of the golf cart or against the owner if the golf cart is operated with the consent of the owner. In the case of violations by the operator of a golf cart operating with the consent of the owner, the violation shall be charged against the owner only as a municipal infraction and the following civil penalty shall be applicable:

1. In the case of a first violation - $100.00.
2. For the second violation within one calendar year - $200.00.
3. In the event of a third violation within one calendar year - $300.00.

(Ch. 74 - Ord. 763- Nov. 17 Supp.)
CHAPTER 75

SNOWMOBILES

75.01 Definitions. As used in this chapter, unless the context otherwise requires:

1. “Dead man throttle” means a device which disengages the motor from the driving track of a snowmobile when pressure is removed from the accelerator or throttle.

2. “Emergency” means a condition or situation in which there is imminent danger of loss or injury to a person or property.

3. “Operate” means to ride in or on, other than as a passenger, use or control the operation of a snowmobile in any manner, whether or not the snowmobile is moving.

4. “Operator” means a person who operates or is in actual physical control of a snowmobile.

5. “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[18])

(Ord. 600 - Nov. 05 Supp)

6. “Street” 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 and includes all City streets, alleys and public rights-of-way and State and Federal highways within the City.

75.02 Hours of Operation. No person shall operate a snowmobile on public or private property anywhere within the City between the hours of one o’clock (1:00) a.m. and seven o’clock (7:00) a.m. except in an emergency.
75.03 **MINIMUM AGE OF OPERATOR.** No person under the age of sixteen (16) years shall operate a snowmobile on public or private property anywhere within the City.

75.04 **OPERATION ON PRIVATE PROPERTY.** No person shall operate a snowmobile on any privately owned property within the City except with the express consent of the owner, lessee or other person in lawful control of such property.

75.05 **OPERATION ON PUBLIC PROPERTY.** No person shall operate a snowmobile on or across any City street, alley, other public right-of-way or any other public property including City parks and recreation areas, except as specifically permitted in the following subsections:

1. Emergency. On any streets in an emergency during the period of time when and at locations where snow or ice upon the streets renders travel by conventional motor vehicles impractical, for purposes of necessary transportation directly connected with such emergency.

2. Designated Trails. On trails or routes on public property, including streets, which are designated by resolution of the Council and which are marked by appropriate signs giving notice that snowmobiles may be operated on and along such trails or routes.


4. Incidental Use. On streets between a place where a snowmobile may be lawfully operated, as provided above, and the residence of the operator or owner of the snowmobile, the place of storage for the snowmobile, or a commercial establishment where a snowmobile is to be refueled, serviced or repaired. Any snowmobile operation on City streets under this exception shall be restricted to the shortest route between an area of permitted snowmobile use, as provided above, and a permitted destination, as provided in this subsection. A person operating a snowmobile on a street other than a designated snowmobile trail or route, as provided in subsection 2 above, shall have the burden of proving that such operation complies with the exception stated in this subsection.

5. Crossing of Street. On a public street for purposes of crossing the same, provided that such snowmobile operation is otherwise permitted by this chapter and further provided that such crossing complies with the requirements of Section 75.06 of this chapter.
75.06 CROSSING OF STREET. A snowmobile otherwise lawfully operated under the provisions of this chapter may make a direct crossing of a street, provided:

1. Ninety Degree Angle. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and
2. Complete Stop. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled portion of the street; and
3. Yield to Traffic. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
4. Crossing at Intersection. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street.

75.07 MINIMUM SNOW AND ICE COVER. No person shall operate a snowmobile on any public property within the City, other than streets, unless the snow and ice cover on such property is not less than four inches in depth. No person shall operate a snowmobile on any street unless the snow and ice cover is not less than one inch in depth. This section shall not be deemed to enlarge the areas or places in which snowmobiles may be operated, but shall apply to all public property, including streets, where snowmobile operation is otherwise permitted under this chapter.

75.08 REQUIRED EQUIPMENT. No person shall operate a snowmobile within the City without all of the following equipment:

1. Muffler. A suitable and effective muffling device which limits engine noise to not more than eighty-six (86) decibels as measured on the “A” scale at a distance of 50 feet except in the case of snowmobiles manufactured after July 1, 1973, in which case the muffler system shall limit engine noise to not more than eighty-two (82) decibels on such scale and at such distance, and except for snowmobiles manufactured after July 1, 1975, for which the muffler system shall limit engine noise to not more than seventy-eight (78) decibels on such scale and at such distance.
2. Lights. At least one headlight and one taillight.
3. Brakes. Brakes which conform to standards prescribed by the Director of the Iowa Department of Transportation.
4. Safety Throttle. A safety or “dead man” throttle in operating condition.
5. Flag. A bright orange-colored pennant or flag, providing a fluorescent effect, measuring a minimum of six inches by nine inches, and displayed at least sixty inches above the ground.

75.09 UNLAWFUL OPERATION. It is unlawful for any person to operate a snowmobile on any public or private property within the City as follows:

1. Speed. At a rate of speed greater than 15 miles per hour, provided the circumstances are not such that a lesser speed would be prudent.

2. Careless Manner. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

3. Under the Influence. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

4. Improper Equipment. Without the proper equipment as required by Section 75.08 of this chapter or without a lighted headlight and taillight from sunset to sunrise and at such other times when conditions provide insufficient light to render clearly discernible persons and vehicles at a distance of 500 feet ahead.

5. Firearms. While in possession of a firearm unless it is unloaded and enclosed in a carrying case.

6. Unregistered Snowmobile. Without having such snowmobile registered as provided for by Iowa law except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of the owner’s immediate family.

7. Without Insurance. Without having in force at the time of operation a policy of insurance affording coverage for the operation of a snowmobile against liability imposed by law for bodily injury or death and for property damage. The minimum limits of coverage required of an owner or operator shall be $10,000 for one person who is injured or killed in any one accident and $20,000 for two or more persons who are injured or killed in one accident. For property damage, the minimum coverage shall be $5,000. If requested by a peace officer, an owner or operator of a snowmobile shall present proof within 24 hours that a policy of insurance is currently in force.

8. Unattended. To leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys for starting the vehicle left in the ignition.

9. Racing. For racing any moving object while on a street.
75.10 **TOWING.** No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

75.11 **SINGLE FILE.** It is unlawful to operate a snowmobile on any street abreast with one or more other snowmobiles.

75.12 **TRAFFIC LAWS APPLICABLE.** While being operated on streets, snowmobiles are deemed to be motor vehicles subject to all provisions of this Code of Ordinances relating to the operation of motor vehicles, except as may be modified by this chapter.
CHAPTER 76

BICYCLES AND SKATEBOARDS

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

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

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

(Code of Iowa, Sec. 321.234)

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

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

76.04 KEEPING TO THE RIGHT. Bicycles shall be operated as near the right-hand curb as possible on the streets and as near the right side as possible on sidewalks in the residential districts.

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

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

(Code of Iowa, Sec. 321.236 [10])
76.06 **SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

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

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

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

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

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

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

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

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

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

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

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

76.10 **TOWING.** It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City.

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

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

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

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

76.15 SKATEBOARDS.

1. No person shall ride, operate or otherwise use a skateboard on any street, sidewalk or public parking lot located within the “B-1” Central Business Zoning District as designated on the official Zoning Map of the City maintained in the office of the Clerk.

2. Pedestrians upon the sidewalks shall have the right-of-way at all times over persons using or operating skateboards upon any sidewalk.
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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions
80.02 Authority to Take Possession of Abandoned Vehicles
80.03 Notice by Mail
80.04 Notification in Newspaper
80.05 Fees for Impoundment
80.06 Disposal of Abandoned Vehicles
80.07 Disposal of Totally Inoperable Vehicles
80.08 Proceeds from Sales
80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1])

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. A property owner or other person in control of private property may employ a private entity which is a garage keeper (any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles) to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority’s initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

*(Ord. 663 – Dec. 09 Supp.)*

**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. If the abandoned
vehicle was taken into custody by a private entity without a police authority’s
initiative, the notice shall state that the private entity may claim a garage
keeper’s lien as described in Section 321.90 of the Code of Iowa, and may
proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken
into custody by a police authority or by a private entity hired by a police
authority, the notice shall state that any person claiming rightful possession
of the vehicle or personal property who disputes the planned disposition of
the vehicle or property by the police authority or private entity or of the assessment
of fees and charges provided by this section may ask for an evidentiary hearing
before the police authority to contest those matters. If the persons receiving
notice do not ask for a hearing or exercise their right to reclaim the vehicle or
personal property within the ten-day reclaiming period, the owner, lienholders
or claimants shall no longer have any right, title, claim, or interest in or to the
vehicle or the personal property. A court in any case in law or equity shall not
recognize any right, title, claim, or interest of the owner, lienholders or
claimants after the expiration of the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89[3a])
(Ord. 663 – Dec. 09 Supp.)

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 three dollars ($3.00) if claimed within five (5) days of impounding,
plus one dollar ($1.00) for each additional day within the reclaiming period plus
towing charges if stored by the City, or towing and storage fees, if stored in a
public garage, whereupon said vehicle shall be released. The amount of towing
charges, and the rate of storage charges by privately owned garages, shall be
established by such facility.

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

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

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (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])

(Ch. 80 - Ord. 601 - Nov. 05 Supp)

[The next page is 475]
CHAPTER 90

WATER SERVICE SYSTEM

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

1. “Combined service account” means a customer service account for the provision of two or more utility services.

2. “Customer” means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. “Superintendent” means the Public Works Superintendent of the City or any duly authorized assistant, agent or representative.

4. “Water main” or “main” means a water supply pipe providing water from the water system to two or more customers. A water main under City ownership and control is a “public water main.”

5. “Water service pipe” means the pipe from the water main to the building or premises served.

6. “Water system” or “water works” means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

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

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

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

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely watertight at the expense of the owner of the property previously served by the abandoned connection. Such owner shall indemnify the City for any loss, damage or expense that may directly or indirectly result from any failure to comply with this section.

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, accompanied by a sketch of where the service line will be located, 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 person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay two hundred dollars ($200.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

(Ord. 756 - Nov. 17 Supp.)

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code.
90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. A plumber making connections to the water system or excavations therefor shall indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by such work or by carelessness, negligence or unskillfulness in its performance.

90.09 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.

90.10 TAPPING MAINS. No person, except authorized City personnel, shall make any tap into a water main. All taps shall be made in accordance with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premise 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 three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one 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 Superintendent shall order. All taps in the mains shall be made at or near the top 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 Cock. A brass corporation cock, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in
the main. The corporation cock in the main shall in no case be smaller than one size smaller than the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be 3/4-inch or 1-inch type K copper tubing. Larger water service pipes may be used only with the prior approval of the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

90.13 FAILURE TO MAINTAIN. When any portion of a water service pipe becomes defective or creates a nuisance and the customer fails to correct such defect or nuisance, the City may do so and assess the costs thereof to the property served by the water service pipe.

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

90.14 CURB STOP. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe at the outer sidewalk line or property line with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover visible and even with the pavement or ground. All costs and expenses incident to the installation, connection and maintenance of the curb stop shall be paid by the customer.

90.15 INTERIOR STOP. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.
90.16 **INSPECTION AND APPROVAL.** All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 **COMPLETION BY THE CITY.** Should any excavation be left open or only partly refilled for 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 Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 **TEMPORARY SERVICE STOPPAGES.** Water service to any customer shall not be temporarily stopped except in accordance with the following:

1. Violations. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected, the customer has paid a fifty dollar ($50.00) reconnection fee, and the Superintendent has ordered the water to be turned on.

2. Construction and Repairs. The Superintendent shall turn off and restore water service as reasonably necessary to accommodate public and private construction and repair projects, without charge unless a new tap is made to a public main.

90.19 **OPERATION OF CURB STOP AND HYDRANTS.** It is unlawful for any person except the Superintendent to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.
90.20  **NEW WATER MAINS.** All water mains to be installed in the City or in any subdivision shall be not less than eight (8) inches in diameter and shall be constructed of cast iron or ductile iron. Water mains constructed of polyvinyl chloride (PVC) or other plastic materials are prohibited and no variance from this requirement shall be approved. All new water mains, whether within or without the City, which are to be connected to the City’s waterworks system shall be inspected, after installation but before being buried, by the Superintendent.

[The next page is 483]
CHAPTER 91

WATER METERS

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

91.02 WATER USE METERS. All water furnished customers shall be measured through meters furnished or approved by the City and installed by a plumber in accordance with the following:

1. For purposes of this chapter, a “residential meter” is any water meter having a line diameter of one (1) inch or less. All larger meters shall be deemed “commercial meters.” Commercial meters shall be either “compound meters” or “non-compound meters.”

   (Ord. 703 - Oct. 12 Supp.)

2. It is the policy of the City to require that only City-owned residential meters be used. All commercial meters shall remain in private ownership.

3. The City shall furnish a residential meter for all new connections requiring residential meters.

4. The use of privately owned residential meters may continue until the City gives notice to the customer of the required substitution of a City-owned residential meter and furnishes a meter for that purpose. All customers using privately owned residential meters shall permit the substitution of a City-owned residential meter upon the request of the Superintendent. In the alternative, where feasible, the Superintendent may modify privately owned residential meters to conform to specifications for City-owned meters.

5. Customers may elect to have water use measured by more than one meter, provided, however, that water use in mobile home parks shall be measured by a single meter unless the Council approves the use of multiple meters.
6. The Superintendent shall establish, maintain and update, as appropriate, a list of makes and/or models of commercial meters approved for use. No commercial meter shall be used unless it is on the approved list.

91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No 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. Any new or replacement meter must be the type which may be read from outside the building.

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

91.06 METER COSTS.

1. City-owned residential meters supplied for new connections shall be furnished without cost to the customer. Installation costs for such meters shall be paid by the customer.

2. City-owned residential meters substituted for privately owned meters pursuant to Section 91.02(4) shall be furnished and installed at City expense. The cost of modification of privately owned meters, as provided in Section 91.02(4), shall be paid by the customer unless ownership is transferred to the City.

3. All commercial meters shall be furnished and installed at the expense of the customer.

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

91.08 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building or premises.  

(Ord. 703 - Oct. 12 Supp.)
CHAPTER 91
WATER METERS

91.09 RESIDENTIAL METER TESTING. Residential water meters shall be tested for accuracy in accordance with the following:

1. Residential water meters may be tested at any time at the request of the Superintendent. Tests conducted at the request of the Superintendent shall be without charge to the customer.

2. The Superintendent shall test the accuracy of any residential meter when requested in writing by a customer. The customer requesting the test shall pay a testing fee of one hundred dollars ($100.00) if the meter is found to be accurate or slow or less than five percent (5%) fast.

3. If a test of a City-owned residential meter discloses it to be fast to the extent of five percent (5%) or more, a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not for longer than six (6) months.

(Ord. 703 - Oct. 12 Supp.)

91.10 COMMERCIAL METER TESTING. Commercial water meters shall be tested for accuracy in accordance with the following:

1. All commercial meters shall be tested for accuracy not less than every three years. All such regular tests shall be conducted at the City’s expense and the results shall be certified to the Superintendent.

2. Non-compound commercial meters may also be tested at any time upon the request of the customer or the Superintendent, without charge to the customer beyond the regular monthly fee.

3. Compound commercial meters may also be tested at any time upon the request of the customer or the Superintendent. The cost of all such non-scheduled testing of compound meters shall be the responsibility of the customer unless the test is requested by the Superintendent and the test results indicate the meter is fast, accurate or slow by less than five percent (5%), in which case the City shall pay the testing expense.

(Ord. 703 - Oct. 12 Supp.)

91.11 REPAIR AND REPLACEMENT OF RESIDENTIAL METERS.

1. If a privately owned residential meter is found to be inaccurate, the Superintendent may replace it with a City-owned residential meter at the City’s expense.

2. If an inaccurate privately owned residential meter can be repaired and the Superintendent does not replace it with a City-owned meter, it
shall be promptly repaired at the owner’s expense by a repair person approved by the Superintendent.

3. If an inaccurate privately owned residential meter cannot be repaired, it shall be replaced by a City-owned meter at City expense.

4. No privately owned residential meter shall be replaced by another privately owned meter.

5. The cost of any necessary repair or replacement of a City-owned residential meter shall be paid by the City unless the Superintendent determines the inaccuracy or damage was caused by tampering or other intentional conduct committed by the customer or any occupant of the building or premises served by the connection, in which case the customer shall pay the cost.

(Ord. 703 - Oct. 12 Supp.)

91.12 COMMERCIAL METER REPAIR AND REPLACEMENT.

1. The cost of any necessary repair of a non-compound commercial meter shall be paid by the City. If the meter cannot be repaired, it shall be replaced at the expense of the customer.

2. The cost of any necessary repair or replacement of a compound commercial meter shall be paid by the customer. If the meter cannot be repaired it shall be promptly replaced at the expense of the customer.

3. All replacement commercial meters shall be compound type meters.

(Ord. 703 - Oct. 12 Supp.)

91.13 COMMERCIAL WATER METER TESTING AND MAINTENANCE FEES. The following fees shall be assessed to commercial water utility customers and added to the monthly billing for commercial service charges.

1. Non-Compound Meters. Commercial water utility customers utilizing non-compound meters shall pay a monthly fee of $12.00 which includes all testing and repair services.

2. Compound Meters. Commercial water utility customers utilizing compound meters shall pay a monthly fee of $7.50 for scheduled testing services.

(Ord. 705 - Oct. 12 Supp.)
CHAPTER 92

WATER RATES

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE.

1. Residential Rates. For the period from July 1, 2020 through June 30, 2021, the minimum quarterly rate for residential water service per meter within the City shall be $23.25 which shall be imposed despite any temporary absence of the customer. Subject to said minimum, the quarterly water rates per meter within the City during said period shall be as follows:

(Code of Iowa, Sec. 384.84)

<table>
<thead>
<tr>
<th>Gallons Used Per Quarter</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>The first 3,000 gallons</td>
<td>$7.75 per 1,000 gallons</td>
</tr>
<tr>
<td>The next 10,000 gallons</td>
<td>$4.62 per 1,000 gallons</td>
</tr>
<tr>
<td>The next 10,000 gallons</td>
<td>$4.11 per 1,000 gallons</td>
</tr>
<tr>
<td>All over 23,000 gallons</td>
<td>$3.87 per 1,000 gallons</td>
</tr>
</tbody>
</table>

"Residential water service" is service received through a residential meter as defined in Section 91.02(1) of this Code. All other water service shall be deemed commercial service.

2. Commercial Rates. For the period from July 1, 2020 through June 30, 2021, the minimum monthly rate for commercial water service per meter within the City shall be $7.75 which shall be imposed despite any temporary absence of the customer. Subject to said minimum, the monthly commercial water rates per meter within the City during said period shall be as follows:

(Code of Iowa, Sec. 384.84)
<table>
<thead>
<tr>
<th>Gallons Used Per Month</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>The first 1,000 gallons</td>
<td>$7.75 per 1,000 gallons</td>
</tr>
<tr>
<td>The next 3,333 gallons</td>
<td>$4.62 per 1,000 gallons</td>
</tr>
<tr>
<td>The next 3,333 gallons</td>
<td>$4.11 per 1,000 gallons</td>
</tr>
<tr>
<td>All over 7,666 gallons</td>
<td>$3.87 per 1,000 gallons</td>
</tr>
</tbody>
</table>

3. Annual Increases. All water rates established by this section shall be increased by 2.5% annually beginning July 1, 2021.

*(Section 92.02 – Ord. 801 – Nov. 20 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 two hundred percent (200%) 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)*

**92.03A INFRASTRUCTURE FEE.** In addition to the rates for water service imposed under Section 92.03, each residential and commercial customer shall pay an infrastructure fee of $2.00 per month per meter for the maintenance and improvement of the municipal water service system. The infrastructure fee shall be billed as part of a combined service account and all provisions of this chapter pertaining to billing, delinquency, penalties and collection of water service charges shall apply equally to infrastructure fees.

*(Ord. 761 - Nov. 17 Supp.)*

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

*(Code of Iowa, Sec. 384.84)*

1. Meters Read. All residential meters will be read on a quarterly basis by City employees. Commercial meters will be read monthly.

2. Bills Issued.

   A. Residential service charges shall be billed on a staggered quarterly basis. The Clerk shall prepare and issue bills for combined service accounts on or before the last day of the month following the close of the billing quarter applicable to each customer.

   B. All commercial service charges shall be billed monthly. The Clerk shall prepare and issue bills for combined service accounts on or before the last day of the month following the month being billed.
3. Bills Payable. Bills for combined service accounts shall be due and payable by the 20th day of the second month following the close of the billing period applicable to each customer.

(Ord. 702 - Oct. 12 Supp.)

4. Late Payment Penalties and Administrative Fees. Payments may be made in cash, by check, money order, automatic debit or electronic fund transfer. Payments made by U.S. mail shall be delinquent if not postmarked by the due date. All other payments shall be delinquent if not received in the office of the Clerk by the close of business on the due date or by the close of business on the next business day after the due date if the due date falls on a weekend or holiday when the Clerk’s office is closed. A late payment penalty of ten percent (10%) of the amount due shall be added for each thirty (30) days of delinquency. An administrative fee of $20.00 shall be added to any accounts on which a check is received which is dishonored. An administrative fee of $20.00 shall also be added to any accounts for which an automatic debit failed to produce a payment, but in such cases the account must then be paid in full by cash or certified funds to avoid disconnection of services.

(Ord. 706 - Oct. 12 Supp.)

5. Service Discontinuance. When service to any premises or customer is discontinued because of change of residence or other cause, City employees shall read the meter as soon as reasonably possible following notification. The Clerk shall prepare and issue a final bill which shall be due and payable by the 20th day after issuance.

6. Late Payment Penalty Waiver. Notwithstanding subsection 4 of this section, late payment penalties on delinquent combined service accounts may be waived in whole or in part in accordance with administrative rules adopted by resolution of the City Council.

7. Account Adjustments Due to Water Leaks. When undiscovered water leaks have substantially increased metered water usage the City Council, in individual cases and pursuant to administrative rules adopted by resolution, may approve a reduction in the water and sanitary sewer components of the affected combined service accounts.

(Ord. 650 – Dec. 09 Supp.)

92.05 SERVICE DISCONTINUED. Except as provided by Section 92.09, water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection. The
CHAPTER 92  
WATER RATES

date of discontinuance or disconnection shall be at least ten (10) days after the notice is mailed but no sooner than the Wednesday following the next regular meeting of the Council.

2.  If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.  If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3.  Hearing.  If a hearing is requested by noon on the Thursday preceding a regular meeting of the Council, the Council shall conduct an informal hearing at the meeting and shall make a determination as to whether the discontinuance or disconnection is justified.

4.  Fees.  A fee of fifty dollars ($50.00) shall be charged before service is restored to a delinquent customer.  No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

(Ord. 764 – Nov. 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.  Except as provided in Section 92.09, 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.

(Code of Iowa, Sec. 384.84)

1.  Water Service Exemption.  The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges.  The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City.  When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full.  The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2.  Other Service Exemption.  The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service.  The City may require a deposit not exceeding the usual cost
of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. Written Notice. The landlord’s written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership.

(Ord. 721 – Sep. 13 Supp.)

4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

(Ord. 748 – Dec. 16 Supp.)

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

(Ord. 664 – Dec. 09 Supp.)

(Code of Iowa, Sec. 384.84)

92.09 CHANGE OF OWNERSHIP. Prior to taking any action to discontinue service or to certify water service charges to the County Treasurer for collection because of an account delinquency, the Clerk shall contact the County Recorder in order to determine whether there has been a change of ownership of the premises for which a delinquent account exists since the delinquency accrued. In the event
ownership of such premises has been transferred since the delinquency accrued, the City shall not discontinue service to said premises nor certify the delinquent account to the County Treasurer for collection with respect to the transferred premises.

(Ord. 649 – Nov. 08 Supp.)
CHAPTER 93

WATER MAIN EXTENSIONS

93.01 PUBLIC WATER MAIN EXTENSIONS. It is the policy of the City to extend public water mains to all premises within the City for which water service is desired as municipal financial and personnel limitations permit. However, the City shall have no obligation to extend mains or otherwise facilitate, at public expense, new connections to any particular premises at any particular time. The City will cooperate in the extension of public water mains within the City at private expense, including requiring reasonable reimbursement, as determined by the Superintendent, to the original installer by subsequently connecting users as a condition of connection. No such reimbursement fee for connecting to any public water main shall be charged or collected without prior approval by the Superintendent. Nothing herein shall prevent the financing of public water main extensions in any other lawful manner, including special assessment, as determined by the Council.

93.02 CITY OWNERSHIP AND CONTROL OF WATER MAINS.

1. It is the policy of the City to bring all water mains connected to the water system under City ownership and control. Wherever practical, water mains shall be installed within City street rights-of-way or on other municipal property. In all other cases, utility easements shall be granted to the City when new water mains are installed or extended as a condition for the connection of the same with the waterworks.

2. In the case of any existing water mains located on private property for which no express easement has been granted to the City, a utility easement shall be granted to the City by the property owner and all persons claiming rights in the main upon the request of the Superintendent as a condition of continued connection to the waterworks for all premises served by the main. If a water main is located on private property, the owner shall also, upon the request of the Superintendent, grant easements for the connection thereto of water service pipes from such other properties as the Superintendent deems appropriate, subject to reasonable reimbursement for the expense of privately financed water mains in the same manner as set forth in Section 93.01.
93.03 NEW CONNECTIONS OUTSIDE OF CITY.

1. Except as provided in subsection 4 of this section, municipal water utility service shall not be extended to any new or additional premises, building or user located outside the corporate limits of the City, nor shall any person make any new or additional connection or tap to any water pipe, service line, lateral or main which is presently a part of or connected to the municipal waterworks system, whether within or without the corporate limits, which shall have the effect of extending municipal water service to any new or additional premises, building or user located outside the corporate limits of the City, nor shall any existing service line or main on any premises be extended so as to provide municipal water service to any other part of the same premises which is not within the corporate limits of the City.

2. This section is prospective only and shall not be deemed to prohibit or affect any connection, service line or main in existence as of June 16, 1988.

3. For purposes of this section, “premises” means a parcel of real estate or adjoining parcels of real estate under common ownership.

4. Upon application to the Superintendent, municipal water utility service may be extended to new or additional premises, buildings or users located outside the corporate limits of the City in the following circumstances and subject to the following conditions:

   A. Approval by majority vote of the Council is required in all cases.

   B. No such connection shall be permitted unless the premises in question is ineligible for immediate voluntary annexation to the City because the premises does not “adjoin” the City, as defined by Iowa Code Section 368.1.

   C. Even if the requirement of subsection B of this subsection is satisfied, the Council shall have no obligation to approve the connection of any premises to the municipal waterworks system, and this subsection does not confer any rights with respect to such connection upon any present or future owners or occupants of any premises located outside the City.

   D. To the extent practicable, all the provisions of Chapters 90 through 93 of this Code of Ordinances are applicable to the connection and disconnection of such premises to or from the municipal waterworks system, except that the connection fee shall
be two hundred fifty dollars ($250.00) for all new or additional connections made pursuant to this subsection.

E. The Council may impose such conditions in connection with any approval granted hereunder as it deems necessary or prudent.

F. The City shall not assume any responsibility or liability for the construction, installation or maintenance of any water lines, mains or other facilities located outside the corporate limits of the City unless such responsibility is expressly assumed by action of the Council.
CHAPTER 94
PRIVATE WELLS

94.01 PRIVATE WELL RESTRICTIONS. Because of groundwater contamination in the area, no person shall drill or construct a private water well after the effective date of the ordinance codified by this chapter within the following described area of the City:

All that part of the City of Waukon lying south of Fifth Avenue NW and NE, west of First Street NE and SE, east of Ninth Street NW and SW, and north of Fourth Avenue SW, in Allamakee County, Iowa.

(Ord. 722 – Nov. 14 Supp.)

94.02 DEFINITION. For purposes of this chapter, the term “water well” means both drinking and non-drinking water wells as defined in the rules of the Iowa Department of Natural Resources found in 567 Iowa Administrative Code 135.2, and any subsequent amendments thereto.

94.03 EXEMPTIONS. The following wells are exempt from the prohibition set forth in Section 94.01:

1. Monitoring Wells. Wells used for soil and groundwater investigation.

2. Closed Loop Wells. Geothermal or heat pump wells employing closed loop construction which prevents human exposure to the water.

(Ch. 94 - Ord. 704 – Oct. 12 Supp.)
CHAPTER 95
SANITARY SEWER SYSTEM

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 wastewater 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 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.

   \[(IAC, 567-69.3[1])\]

3. “Building sewer” means the extension from the building drain to the public sewer or other place of disposal.

   \[(IAC, 567-69.3[1])\]

4. “Customer” means, in addition to any person receiving sewer 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.

5. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
6. “Industrial wastewater” means the wastewater from industrial processes, trade, or business, as distinct from domestic wastewater, but not including unpolluted cooling water.

7. “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.

8. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

9. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less.

10. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

11. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. “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.

13. “Sanitary sewer” — see “sewer.”

14. “Sewage” — see “wastewater.”

15. “Sewer” or “sanitary sewer” means any pipe or conduit for carrying wastewater to which storm, surface and ground waters are not intentionally admitted.

16. “Sewer main” or “main” means a sewer carrying wastewater from two or more customers.

17. “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.

18. “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.
19. “Storm sewer” or “storm drain” means a pipe or conduit which carries storm, surface, ground and unpolluted cooling waters and to which wastewater is not intentionally admitted.

20. “Superintendent” means the Superintendent of the City wastewater system or any authorized deputy, agent, or representative.

21. “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.

22. “Wastewater” or “sewage” means all water-carried wastes from residences, businesses, institutions and industrial establishments, together with such ground, surface and storm water as may be present, but not including unpolluted cooling water.

23. “Wastewater treatment works” (also referred to as “treatment works,” “wastewater treatment plant” and “sewage treatment plant”) means any municipal devices and systems for the storage, treatment, recycling and reclamation of wastewater. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of wastewater.

24. “Wastewater works” (also referred to as “wastewater system,” “sanitary sewer system,” and “sewage system”) means all public facilities for collecting, pumping, treating and disposing of wastewater.

25. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage 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 sewage system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sewage 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. Except as provided in subsections 1 and 2 of this section, the owner of each house, building, or property used for human occupancy, employment, recreation, business, industry or other purposes involving extended human presence, situated within the City and abutting on any street, alley or other public right-of-way in which there is now located, or may in the future be located, a public sewer, at such owner’s
expense, shall install suitable water-flushed toilet facilities therein, and shall connect such facilities and all other wastewater drainage pipes directly with the proper public sewer in accordance with the provisions of these Sanitary Sewer chapters, provided that said public sewer is within one hundred (100) feet of such owner’s property. Such installation and/or connection shall be made within sixty (60) days after date of written notice by the Superintendent to do so. Such owner shall be billed and shall be liable for sewer service beginning on the date of the written notice to connect to the public sewer. A direct connection with a public sewer shall be required in all cases in which the owner fails to secure all necessary County and/or State permits for a private wastewater disposal system, regardless of the distance to the nearest public sewer. However, where a public sewer exists in a public right-of-way and is located within one hundred (100) feet of an abutting property, the property owner shall not be required to make a connection or direct connection to said public sewer in the following circumstances and subject to the following conditions:

1. If the owner’s intended use of the property would require the installation of a building sewer which would exceed a length of 300 feet from the facility to be served to the public sewer, a private wastewater disposal system complying with Chapter 98 may be installed and utilized, provided all necessary County and/or State permits for such private system are secured.

2. If the depth of the public sewer in the public right-of-way to which the property abuts is four feet or less below the right-of-way surface and is inaccessible by gravity flow from a building sewer extending from the depth of a normal residential basement, and if, in addition there exists a public or private sewer main which is accessible to such building sewer by gravity flow, the Council may approve such alternate connection if it is established that the owner of the private sewer consents to such connection, that necessary easements have been or will be granted, and that the private main is of such quality and capacity that sewer service to all properties served by the main will not be jeopardized by the connection. In such cases, all provisions of Chapter 96 relating to permits and installation shall be applicable, except the provisions of subsection 6 of Section 96.05.

(Ord. 468 - Oct. 98 Supp)

3. The City Council may waive the requirement imposed by this section for a connection to a public sewer if a property is served by a private on-site wastewater treatment and disposal system complying with Chapter 98 of this Code of Ordinances and if the connection requirement becomes applicable to the property because of a grant of public easement
rights by the property owner which facilitates an extension of the
sanitary sewer system.  

(Ord. 625 – Dec. 07 Supp.)

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

95.07 OWNER’S LIABILITY LIMITED. While performing the necessary
work on private property, the Superintendent or duly authorized employees of
the City shall observe all safety rules applicable to the premises established by
the owner or occupant and the owner or occupant shall be held harmless for
injury or death to City employees and the City shall indemnify the owner or
occupant against loss or damage to its property by City employees and against
liability claims and demands for personal injury or property damage asserted
against the owner or occupant and growing out of any gauging and sampling
operation, except as such may be caused by negligence or failure of the owner
or occupant to maintain safe conditions.

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

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

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

(Ord. 498 – Dec. 99 Supp.)

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 SERVICE TERMINATION. The Superintendent may shut off the
supply of water or otherwise cause the termination of sewer service to any
customer because of any violation of the regulations contained in these Sanitary
Sewer System chapters that is not being contested in good faith. Service shall
not be restored until all violations have been corrected, the customer has paid a
fifty dollar ($50.00) reconnection fee, and the Superintendent has ordered
service restored. Termination of service may be imposed in addition to any
other applicable penalties.
CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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 sewage 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. This procedure shall also apply to any replacement of existing building sewers, in whole or in part.

96.02 Permit Fee. The person who makes the application shall pay a fee in the amount of two hundred dollars ($200.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating and inspecting the work.

(Ord. 756 – Nov. 17 Supp.)

96.03 Plumber Required. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further
action that is necessary and proper. A plumber making connections to the public sewers or excavations therefor shall indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by such work or by carelessness, negligence or unskillfulness in its performance.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. No backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building except as follows:

   A. Where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

   B. Multiple buildings under common ownership located on the same zoning lot, as defined in Section 165.05, may share a single building sewer.

   C. Buildings located on adjacent zoning lots not under common ownership may share a single building sewer if the following conditions are satisfied:

      (1) All buildings served by the joint building sewer and the building sewer itself must have been constructed prior to July 1, 1986.

      (2) The owners of all such buildings must enter into a written agreement, approved by the City Council and recorded in the office of the Allamakee County Recorder, that addresses easement rights, maintenance and
replacement responsibility and liability for damages with respect to the joint building sewer.

(Ord. 651 – Dec. 09 Supp.)

3. Connection. The connection of the building sewer into the public sewer shall conform to the requirements of the State Plumbing Code or applicable rules and regulations of the City, or the procedures set forth in the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Installation. The size, slope, alignment and the methods to be used in excavating, placing of the pipe, jointing, testing and back-filling the trench shall all conform to the requirements set forth in appropriate specifications of the latest revision of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9.

5. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

6. Sewage Lifts. Except as provided in Section 95.05, in all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

(Ord. 468 - Oct. 98 Supp)

7. New Sewers. Except as may be otherwise required by this section, the following requirements apply to all new or replacement public sewers and building sewers installed within the City and in any area subject to City jurisdiction, including subdivisions:

   A. All public sewers shall be not less than eight (8) inches in diameter.

   B. All building sewers shall be not less than four (4) inches in diameter.

   C. All public sewers and building sewers shall be constructed and installed in conformity with any one of the following:

(2) Concrete Pipe — All pipes shall be in conformance with A.S.T.M. C-14 Table 2 extra strength of latest revision. Pipes shall be assembled with compression type joints conforming to A.S.T.M. C-443 of latest revision.

(3) ABS Composition Pipe — All pipes shall be in conformance with A.S.T.M. designation D-2680 of latest revision. Minimum pipe stiffness shall be 200 psi. Pipes shall be furnished with a collared socket type joint in which a pipe solvent cement is used to form the joint closure in accordance with manufacturer’s recommendations. Installation shall be in accordance with A.S.T.M. D-2331 of latest revision.

(4) Polyvinyl chloride pipe (PVC) — All pipes shall be in conformance with A.S.T.M. F-789 of latest revision. Pipes and fittings also shall conform to the requirements of:


c. Fittings meeting requirements of A.S.T.M. D3034 or A.S.T.M. F789.

D. Depending upon the pipes to be used, suitable adapters shall be installed for proper connection to manholes.

8. Backflow Prevention. A valve which prevents the backflow of wastewater from the building sewer to the building drain shall be installed whenever new or replacement building sewers or building drains are installed.

9. Manholes. If determined by the Superintendent to be necessary for proper maintenance of a public sewer main, manholes shall be constructed at the point of connection of a new sewer extension to an existing sewer main and/or at intervals of not more than three hundred (300) feet along the extension.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that
CHAPTER 96
BUILDING SEWERS AND CONNECTIONS

contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and the State Plumbing Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner’s expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. No person, except authorized City personnel, shall make any tap into a public sewer. The connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If no properly located “Y” branch is available, a “Y” saddle shall be installed. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless in accordance with the Superintendent’s direction.

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

96.09 PROPERTY OWNER’S RESPONSIBILITY. All costs and expenses incident to the installation, connection, maintenance, replacement or disconnection 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 any such work on the building sewer.

**96.10 DISCONNECTION.** Any person desiring to disconnect any building sewer from any public sewer shall make written application and obtain a disconnection permit in the same manner as for connection permits. The disconnection charge shall be fifteen dollars ($15.00). Any permanent disconnection of a building sewer shall be done at the point of its intersection with the public sewer. The disconnected building sewer shall be capped off with cement. The excavation shall not be filled until the disconnection has been inspected and approved by the Superintendent.

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

*Code of Iowa, Sec. 364.12[3]*
CHAPTER 97

USE OF PUBLIC SEwers

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (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 system.

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 system 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 (2) percent of the average sewage flow of the City, except in cases where the prior written approval of the Superintendent has been obtained. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (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 Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:
1. High Temperature. Any liquid or vapor having a temperature higher than 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 two hundred (200) milligrams per liter.

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 (½) inch in any dimension. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.


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 Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

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

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

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastewater shall install a suitable control manhole or other monitoring station together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such manhole or other monitoring station, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole or other monitoring station 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. The Superintendent shall be permitted access to such manhole or other monitoring station and all equipment and other appurtenances 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 or other monitoring station provided, or upon suitable samples taken at said monitoring station. In the event that no special monitoring station has been required, the monitoring station 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 system and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples
should be taken. Normally, but not always, 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).

97.09 SPECIAL ARRANGEMENTS. Nothing in this chapter shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby industrial wastewater of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern.

97.10 COMMERCIAL WASTEWATER HAULERS. Commercial wastewater haulers transporting wastewater collected from sources not connected to the wastewater system shall be permitted to discharge their loads to the wastewater system provided the Superintendent determines the strength of such wastewater is not significantly greater than or less than normal domestic wastewater. The locations, procedures and permitted frequency of such discharges shall be determined by the Superintendent. For purposes of this section, “commercial wastewater hauler” means any private entity that collects and disposes of wastewater for a fee or accumulates and disposes of wastewater as part of a commercial enterprise, such as a bus service or portable toilet business.  

(Ord. 506 – Nov. 00 Supp.)
CHAPTER 98
PRIVATE ON-SITE WASTEWATER SYSTEMS

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. Where 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 a private on-site wastewater treatment and disposal system complying with the provisions of this chapter.

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, 567-69.3[3])

98.04 PERMIT REQUIRED. No person shall install or reconstruct a private 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 a private on-site wastewater treatment and disposal system to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground unless such system has been approved by the County Board of Health.

(IAC, 567-69.3[3])

98.06 MAINTENANCE OF SYSTEM. The owner of a private 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 a private on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.
CHAPTER 99

SEWER USER CHARGE

99.01 Purpose
99.02 Definitions
99.03 Use of Funds
99.04 Operation, Maintenance and Replacement Fund
99.05 Debt Retirement Fund
99.06 Year-end Balances
99.07 Charges Based on Usage
99.08 User Charges
99.09 Special Rates
99.09A Future Rates
99.10 Responsibility for Increased Costs
99.11 Application
99.12 Billing and Payment
99.13 Lien for Nonpayment
99.14 Review of Rates
99.15 Notification of Rate Change
99.16 Charges for Commercial Wastewater Haulers
99.17 Lien Notice

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

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

1. “Normal domestic wastewater” means wastewater that has a BOD concentration of not more than 230 mg/l, a suspended solids concentration of not more than 150 mg/l and a total Kjeldahl nitrogen concentration of not more than 28 mg/l.

2. “Operation and maintenance” means all expenditures during the useful life of the wastewater treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining of the wastewater works to achieve the capacity and performance for which such works were designed and constructed.

3. “Replacement” means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the wastewater treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.

4. “Residential customer” means any customer to the City’s treatment works whose lot, parcel of real estate, building or premises is used for domestic dwelling purposes only.
5. “TKN” (denoting total kjeldahl nitrogen) means the quantity of nitrogen including ammonia and organically bound nitrogen as determined by standard laboratory procedure expressed as milligrams per liter (mg/l) as nitrogen.

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

7. “User” means “customer” as defined in Section 95.02 and shall also mean “contributor.”

8. “User charge” means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works, and when applicable, for the costs associated with debt retirement for issued or anticipated revenue bonds of the wastewater treatment works.

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

99.03 USE OF FUNDS. The user charge system shall generate adequate revenues to pay costs of annual operation and maintenance, including replacement, and all costs associated with debt retirement for any issued or anticipated revenue bonds of the wastewater treatment works which the City may, by ordinance, designate to be paid by the user charge system. The user charges established in Section 99.08 shall be determined in accordance with Appendix “A” to this Code of Ordinances (including Exhibits “A”, “B” and “C” thereto), and shall include amounts necessary to establish an adequate reserve for debt retirement. User charge income shall be allocated to operation and maintenance, including replacement, and debt retirement as provided in Sections 99.04 and 99.05.

99.04 OPERATION, MAINTENANCE AND REPLACEMENT FUND. All user charge income, except such amounts as may be allocated to debt retirement as provided in Section 99.05, shall be designated for operation and maintenance, including replacement, purposes and deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund and will be kept in two primary accounts as follows:

1. Operation and Maintenance Account. An account designated for the specific purpose of defraying operation and maintenance costs (excluding replacement) of the treatment works.
2. Replacement Account. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works. Deposits in the Replacement Account shall be made at least annually from the Operation, Maintenance and Replacement Fund in the amount of $40,000.00 annually.

99.05 DEBT RETIREMENT FUND. That portion of the user charge income necessary to establish an adequate reserve for and to pay all costs associated with debt retirement for any issued or anticipated revenue bonds of the treatment works, in an amount to be established by ordinance, shall be deposited in a separate, non-lapsing fund known as the Debt Retirement Fund. Until such deposits are established, all user charge income shall be deposited to the Operation, Maintenance and Replacement Fund.

99.06 YEAR-END BALANCES. Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts, except for any initial transfers of surplus from the Operation and Maintenance Account to the Debt Retirement Fund as authorized by ordinance. Moneys which have been transferred from other sources to meet temporary shortages in the Operation, Maintenance and Replacement Fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rate shall be adjusted such that the transferred moneys will be returned to their respective accounts within the fiscal year following the fiscal year in which the moneys were borrowed.

99.07 CHARGES BASED ON USAGE. Sewer service charges shall be based upon usage of the wastewater treatment works determined as follows:

1. Each user shall pay for the services provided by the City based on said user’s use of the wastewater treatment works as determined by a water meter or wastewater meter acceptable to the City.

2. User charges for all contributors shall be based on water used during the current quarter or month. However, if a commercial or industrial contributor has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater works, the user charge for that contributor may be based on a wastewater meter or separate water meter installed and maintained at the contributor’s expense, and in a manner acceptable to the City.

(Ord. 702 – Oct. 12 Supp.)
99.08 USER CHARGES.

1. Residential Rates. For the period from July 1, 2019 through June 30, 2026, each residential contributor shall pay quarterly the following service charges and user rates:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Service Charge</th>
<th>User rates per 1,000 gallons of water (or wastewater)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/19 through 6/30/20</td>
<td>$33.24</td>
<td>$6.65</td>
</tr>
<tr>
<td>7/1/20 through 6/30/21</td>
<td>43.21</td>
<td>8.65</td>
</tr>
<tr>
<td>7/1/21 through 6/30/22</td>
<td>49.69</td>
<td>9.95</td>
</tr>
<tr>
<td>7/1/22 through 6/30/23</td>
<td>51.18</td>
<td>10.25</td>
</tr>
<tr>
<td>7/1/23 through 6/30/24</td>
<td>52.72</td>
<td>10.56</td>
</tr>
<tr>
<td>7/1/24 through 6/30/25</td>
<td>54.30</td>
<td>10.88</td>
</tr>
<tr>
<td>7/1/25 through 6/30/26</td>
<td>55.93</td>
<td>11.21</td>
</tr>
</tbody>
</table>

2. Commercial and Industrial Rates. For the period from July 1, 2019 through June 30, 2026, each commercial and industrial contributor shall pay monthly the following service charges and user rates:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Service Charge</th>
<th>User rates per 1,000 gallons of water (or wastewater)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/1/19 through 6/30/20</td>
<td>$11.07</td>
<td>$6.65</td>
</tr>
<tr>
<td>7/1/20 through 6/30/21</td>
<td>14.39</td>
<td>8.65</td>
</tr>
<tr>
<td>7/1/21 through 6/30/22</td>
<td>16.55</td>
<td>9.95</td>
</tr>
<tr>
<td>7/1/22 through 6/30/23</td>
<td>17.05</td>
<td>10.25</td>
</tr>
<tr>
<td>7/1/23 through 6/30/24</td>
<td>17.56</td>
<td>10.56</td>
</tr>
<tr>
<td>7/1/24 through 6/30/25</td>
<td>18.09</td>
<td>10.88</td>
</tr>
<tr>
<td>7/1/25 through 6/30/26</td>
<td>18.63</td>
<td>11.21</td>
</tr>
</tbody>
</table>

3. Service Charge Always Applies. The service charges set forth in Subsections 1 and 2 shall be imposed despite any temporary absence of the contributor.

(Ord. 787 – Nov. 19 Supp.)

99.09 SPECIAL RATES. For those industrial and commercial customers who contribute wastewater, the strength of which is significantly greater than or less than normal domestic wastewater, the monthly user charge for the period
from July 1, 2019 through June 30, 2026, shall be the sum of the following separate charges:

<table>
<thead>
<tr>
<th>Component</th>
<th>7/1/19-6/30/20</th>
<th>7/1/20-6/30/21</th>
<th>7/1/21-6/30/22</th>
<th>7/1/22-6/30/23</th>
<th>7/1/23-6/30/24</th>
<th>7/1/24-6/30/25</th>
<th>7/1/25-6/30/26</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Charge</td>
<td>$11.07</td>
<td>$14.39</td>
<td>$16.55</td>
<td>$17.05</td>
<td>$17.56</td>
<td>$18.09</td>
<td>$18.63</td>
</tr>
<tr>
<td>Per 1,000 gallons of total water</td>
<td>1.72</td>
<td>2.24</td>
<td>2.58</td>
<td>2.66</td>
<td>2.74</td>
<td>2.82</td>
<td>2.90</td>
</tr>
<tr>
<td>Per pound BOD</td>
<td>.88</td>
<td>1.14</td>
<td>1.31</td>
<td>1.35</td>
<td>1.39</td>
<td>1.43</td>
<td>1.47</td>
</tr>
<tr>
<td>Per pound SS</td>
<td>.84</td>
<td>1.09</td>
<td>1.25</td>
<td>1.29</td>
<td>1.33</td>
<td>1.37</td>
<td>1.41</td>
</tr>
<tr>
<td>Per pound TKN</td>
<td>3.25</td>
<td>4.23</td>
<td>4.86</td>
<td>5.01</td>
<td>5.16</td>
<td>5.31</td>
<td>5.47</td>
</tr>
</tbody>
</table>

The Superintendent shall identify those customers whose wastewater significantly exceeds the strength of normal domestic wastewater and shall thereafter, through regular sampling and testing, monitor the strength and volume of such wastewater. The Superintendent shall also identify those customers whose wastewater has significantly less strength than that of normal domestic wastewater based upon adequate test results and documentation furnished by such customers at their own expense. After an initial determination that a customer’s wastewater has a strength significantly greater than or less than that of normal domestic wastewater, the monthly user charges for such user shall be determined by the Superintendent based upon regular sampling and testing in conjunction with flow data. Such customers shall also be required thereafter, at their own expense, to furnish, install and maintain such facilities and equipment necessary, in the judgment of the Superintendent, to monitor such wastewater. The special rates established in this section may be altered in particular cases by written agreement between the City and an industrial or commercial customer.  

(Ord. 787 – Nov. 19 Supp.)

99.09A FUTURE RATES. (Repealed by Ord. 773 – Dec. 18 Supp.)

99.10 RESPONSIBILITY FOR INCREASED COSTS. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City’s treatment works or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works shall pay for such increased costs. The charge to each such user shall be as determined by the Superintendent and approved by the Council.
99.11 **APPLICATION.** The user charge rates established in this chapter apply to all users, of the City’s treatment works, regardless of their location.

99.12 **BILLING AND PAYMENT.** All users shall be billed 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. The provisions contained in Sections 92.05 and 92.08 relating to notices of delinquency, service discontinuation and lien notices shall also apply in the event of a delinquent sewer user charge, except there shall be no sewer service restoration fee if water service is also restored.

99.13 **LIEN FOR NONPAYMENT.** Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the 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 [1]*)

99.14 **REVIEW OF RATES.** The City shall review the user charge system at least once every year and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and debt retirement if applicable, and that the system continues to provide for the proportional distribution of operation and maintenance including replacement and debt retirement costs among users and user classes.

99.15 **NOTIFICATION OF RATE CHANGE.** The City will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance, including replacement and debt retirement, of the treatment works.

99.16 **CHARGES FOR COMMERCIAL WASTEWATER HAULERS.** Commercial wastewater haulers (as defined in Section 97.10) shall pay the following rates for wastewater discharged to the wastewater system:

1. The first 1,000 gallons (or fraction thereof) - $10.00
2. Each additional 1,000 gallons (or fraction thereof) - $10.00

*(Ord. 618 - Dec. 06 Supp.)*

99.17 **LIEN NOTICE.** A lien for delinquent sewer user charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer at least thirty (30) days prior to certification. 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.

*(Ord. 519 – Nov. 00 Supp.)*
CHAPTER 100

SEWER EXTENSIONS

100.01 PUBLIC SEWER EXTENSIONS. It is the policy of the City to extend public sewers to all premises within the City which produce wastewater as municipal financial and personnel limitations permit. However, the City shall have no obligation to extend sewers, install lift stations or otherwise facilitate, at public expense, new connections to any particular premises at any particular time. The City will, however, cooperate in the extension of public sewers within the City at private expense, including requiring reasonable reimbursement, as determined by the Superintendent, to the original installer by subsequently connecting users as a condition of connection. No such reimbursement fee for connecting to any public sewer shall be charged or collected without prior approval by the Superintendent. Nothing herein shall prevent the financing of public sewer extensions in any other lawful manner, including special assessment, as determined by the Council.

100.02 CITY OWNERSHIP AND CONTROL OF SEWERS.

1. It is the policy of the City to bring all sewer mains within the City under City ownership and control. Wherever practical, sewer mains shall be installed within City street rights-of-way or on other municipal property. In all other cases, utility easements shall be granted to the City when new sewer mains are installed as a condition for the connection of the same with the municipal wastewater works.

2. In the case of any existing sewer mains located on private property, for which no express easement to the City exists, a utility easement shall be granted to the City by the property owner upon request as a condition of continued connection to the municipal wastewater works for such premises. If a sewer main is located on private property, the owner shall also, upon request, grant easements for the connection thereto of such building sewers from other properties as the Superintendent deems appropriate, subject to reasonable reimbursement for the expense of privately financed sewer mains in the same manner as set forth in Section 100.01.
100.03 NEW CONNECTIONS OUTSIDE OF CITY PROHIBITED.

1. Municipal wastewater utility service shall not be extended to any new or additional premises, buildings or customers located outside the corporate limits of the City.

2. No person or entity shall make any new or additional connection or tap to any sewer pipe, building sewer, public sewer or main which is presently a part of or connected to the municipal wastewater works, whether within or without the corporate limits, which shall have the effect of extending municipal wastewater collection and treatment service to any new or additional premises, building or customer located outside the corporate limits of the City, nor shall any existing sewer pipe, building sewer, public sewer or main on any premises be extended so as to provide municipal wastewater service to any other part of the same premises which is not within the corporate limits of the City.

3. The Superintendent shall refuse any application for connection to the municipal wastewater works which seeks a connection prohibited by this section.

4. This section is prospective only and shall not be deemed to prohibit or affect any connection, building sewer, public sewer or main in existence on June 18, 1987, or the replacement of same.

5. For purposes of this section, “premises” means a parcel of real estate or adjoining parcels of real estate under common ownership.

[The next page is 545]
CHAPTER 105
SOLID WASTE CONTROL

105.01 Purpose
The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control 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. “Director” means the director of the State Department of Natural Resources or any designee.
   
   (Code of Iowa, Sec. 455B.101[2b])

3. “Discard” means to place, cause to be placed, throw, deposit or drop.

   (Code of Iowa, Sec. 455B.361[2])

4. “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.

5. “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)
6. “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])

7. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes. (Ord. 747 – Dec. 16 Supp.)

(Code of Iowa, Sec. 455B.361[2])

8. “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.

9. “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)

10. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including four (4) separate dwelling units.

11. “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 and trade waste. (IAC, 567-20.2[455B])

12. “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)

13. “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)

14. “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.

(Code of Iowa, Sec. 455B.301)

15. “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, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])
4. Landscape Waste. The disposal by open burning of garden waste, weeds, leaves, grass and yard trimming originating on the premises. However, other types of landscape waste shall not be disposed of by open burning on the premises of origination.

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies provided they comply with the following requirements:
   A. The fire is contained within a fire pit or other noncombustible device not greater than 36 inches in diameter.
   B. A person at least sixteen years of age shall be in attendance at all times.
   C. Only wood and charcoal shall be burned.
   D. The following fires shall be exempt from the requirements of paragraphs A, B, and C: cooking grills burning fuel recommended by the manufacturer, the ceremonial burning of deteriorated flags, and fires at pep rallies conducted on school property under the supervision of school officials.

   (Ord. 632 – Dec. 07 Supp.)

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

   (IAC, 567-23.2[3g])

7. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

   (IAC, 567-23.2[3h])

8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

   (IAC, 567-23.2[3i])

9. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

   (IAC, 567-23.2[2])

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

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

105.07 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. 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)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. 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)


105.09 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, not to exceed thirty (30) gallons in size, and leakproof and waterproof; provided, however, that any waste storage container, regardless of size, leased from a collector furnishing residential solid waste collection services under contract with the City shall be deemed to be in compliance with this section.

(Ord. 505 – Nov. 00 Supp.)
B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise 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 alley line, or where alleys do not exist, at the curb side, by the owner or occupant of the premises served.

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.

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste container not owned or leased by such person without the consent of the owner or lessee of such container.  

   (Ord. 505 – Nov. 00 Supp.)

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.
105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Waste Management of LaCrosse, Wisconsin, are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.
CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be 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 in accordance with procedures therefor established by the collector.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom
CHAPTER 106
COLLECTION OF SOLID WASTE

as required by this chapter; however, solid waste collectors shall not enter
dwelling units or other residential buildings.

106.07 COMMERCIAL COLLECTOR’S LICENSE. No person shall
engage in the business of collecting, transporting, processing or disposing of
solid waste from any commercial, industrial or institutional premises within the
City without first obtaining from the City an annual license in accordance with
the following:

1. Application. Application for a commercial solid waste collector’s
license 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 license 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 amounts acceptable to the Council. 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. License Fee. A license fee in the amount of one hundred dollars
($100.00) shall accompany the application. In the event the requested
license is not granted, the fee paid shall be refunded to the applicant.

4. License 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 license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

6. License Not Transferable. No license 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 license or permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

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

1. Except as provided in subsections 2 and 3 of this section, the following sums shall be charged to and collected from each household unit within the City for the collection and disposal of solid waste for the periods indicated:

<table>
<thead>
<tr>
<th>Period</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>May 1, 2017 to and including April 30, 2018</td>
<td>$13.25</td>
</tr>
<tr>
<td>May 1, 2018 to and including April 30, 2019</td>
<td>$13.25</td>
</tr>
<tr>
<td>May 1, 2019 to and including April 30, 2020</td>
<td>$13.25</td>
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<tr>
<td>May 1, 2020 to and including April 30, 2021</td>
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<tr>
<td>May 1, 2021 to and including April 30, 2022</td>
<td>$13.25</td>
</tr>
<tr>
<td>May 1, 2022 to and including April 30, 2023</td>
<td>$13.50</td>
</tr>
<tr>
<td>May 1, 2023 to and including April 30, 2024</td>
<td>$13.75</td>
</tr>
<tr>
<td>May 1, 2024 to and including April 30, 2025</td>
<td>$14.00</td>
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<tr>
<td>May 1, 2025 to and including April 30, 2026</td>
<td>$14.25</td>
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<tr>
<td>May 1, 2026 to and including April 30, 2027</td>
<td>$14.50</td>
</tr>
<tr>
<td>May 1, 2027 to and including April 30, 2028</td>
<td>$14.50</td>
</tr>
</tbody>
</table>
For purposes of this section, a “household unit” is defined as one or more persons residing together as a single household.

2. The monthly charges for solid waste collection and disposal for each senior citizen household unit within the City shall be as follows during the periods indicated:

May 1, 2017 to and including April 30, 2018 $12.50
May 1, 2018 to and including April 30, 2019 $12.50
May 1, 2019 to and including April 30, 2020 $12.50
May 1, 2020 to and including April 30, 2021 $12.50
May 1, 2021 to and including April 30, 2022 $12.50
May 1, 2022 to and including April 30, 2023 $12.75
May 1, 2023 to and including April 30, 2024 $13.00
May 1, 2024 to and including April 30, 2025 $13.25
May 1, 2025 to and including April 30, 2026 $13.50
May 1, 2026 to and including April 30, 2027 $13.75
May 1, 2027 to and including April 30, 2028 $13.75

For purposes of this section, a “senior citizen household unit” is defined as a household unit in which the head of the household is age 62 years or older. Eligibility for the senior citizen household unit rate shall be determined by the Clerk based upon written application supported by reasonable proof of age.

(Subsections 1 & 2 - Ord. 753 – Nov. 17 Supp.)

3. This section shall not apply to any of the following residences, which shall not be deemed residential premises for purposes of this chapter nor household units for purposes of subsections 1 and 2 of this section:

A. Mobile homes located in mobile home parks. Mobile home parks are commercial premises for purposes of this chapter and the park owner shall provide for the collection of solid waste produced in the park.

B. Apartments in any house or other building containing more than one residential unit and all apartments located above ground floor in business establishments if the owner of the building elects treatment of the entire building as a commercial premises. Such an election shall be made by the owner in writing on a form provided by the Clerk and shall identify the apartments for which commercial treatment is elected. The owner shall also file with the Clerk a copy of the current commercial collection contract between the owner and a licensed commercial solid waste collector covering the apartments. When the election is completed the Clerk shall notify the City’s residential solid waste collector that the City will stop collecting residential fees for the
apartments. If the Clerk later receives notice that a commercial collection contract has been cancelled, the collection of residential fees for all affected apartments shall resume.

(Ord. 590 – Nov. 05 Supp.)

4. The monthly collection fee as provided by this section shall be imposed despite any temporary absence of the customer.

5. The monthly charges set forth in subsections 1 and 2 of this section include a rental fee for one 96 gallon solid waste container which shall be made available to each household unit by the collector furnishing residential solid waste collection services under contract with the City.

(Ord. 753 – Nov. 17 Supp.)

106.08A YARD WASTE MANAGEMENT FEES. The operation by the City of a yard waste management project as provided by this chapter is declared to be beneficial to the properties served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

1. There shall be charged to and collected from each premises within the City the sum of $1.00 per month for the operating costs of the yard waste management project.

2. For purposes of this section, “premises” shall mean each property that receives municipal water utility service through a single water meter.

3. The monthly fee provided by this section shall be imposed despite any temporary absence of the occupant of the premises.

4. All premises shall be billed 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. The provisions contained in Sections 92.06, 92.08 and 92.09 relating to liens for nonpayment shall also apply in the event of a delinquent yard waste management fee.

(Ord. 695 – Nov. 11 Supp.)

106.09 BILLING AND PAYMENT. Solid waste collection fees shall be billed as part of a combined service account payable in accordance with the following:

1. Bills Issued and Payable. Bills shall be issued and all fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in subsections 2, 3 and 4 of Section 92.04 of this Code of Ordinances. Bills shall be mailed to the owner of the household unit unless the owner of a rented household unit requests that the bill be mailed to the tenant and water usage at the household unit is separately metered.

(Ord. 590 – Nov. 05 Supp.)

2. No Proration. The owner and/or tenant of a household unit as of the first day of a billing quarter applicable to such household unit shall be liable for the fees for the entire quarter, regardless of subsequent changes of ownership or occupancy during the quarter.
3. Service Discontinuance and Lien Notices. Solid waste collection service may be discontinued in accordace 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. There shall be no solid waste collection service restoration fee if water service is also restored.

106.10 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Ord. 709 – Oct. 12 Supp.)
(Code of Iowa, Sec. 384.84)

106.11 LIEN NOTICE. A lien for delinquent solid waste collection charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer at least thirty (30) days prior to certification. 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.

(Ord. 519 – Nov. 00 Supp.)
107.01 PURPOSE. The purpose of this chapter is to promote recycling, composting and resource recovery through the administration of an effective recycling program in compliance with the laws of the State of Iowa and Wisconsin. The provisions of this chapter shall be interpreted in light of the applicable recycling statutes of the States of Iowa and Wisconsin, and the requirements herein apply to all persons within the City.

107.02 ADMINISTRATION. The provisions of this chapter shall be administered by the Chairperson of the Health and Fire Committee of the Council.

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

1. “Bi-metal container” means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
2. “Container board” means corrugated paperboard used in the manufacture of shipping containers and related products.
3. “Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
   A. Is designed for serving food or beverages.
   B. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
   C. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
4. “Hazardous waste” means any solid waste identified by the Wisconsin Department of Natural Resources as hazardous under Section 144.62(2)(b), Wisconsin Statutes.

5. “HDPE” means high density polyethylene, labeled by the SPI Code #2.


8. “Magazines” means magazines and other materials printed on similar paper.

9. “Major appliances” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.

10. “Multiple-family dwelling” means a property containing five (5) or more residential units including those which are occupied seasonally. This term includes mobile homes located in mobile home parks.

11. “Newspaper” means a newspaper and other materials printed on newsprint.

12. “Nonresidential facilities and properties” means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

13. “Office paper” means high grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

14. “Other resins or multiple resins” means plastic resins labeled by SPI Code #7.

15. “Person” includes any individual, corporation, partnership, association, local governmental unit, state agency or authority or federal agency.

17. “Plastic container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

18. “Post-consumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste.


22. “Recyclable materials” includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires and bi-metal containers.

23. “Solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility or other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include solids or dissolved material in domestic sewage.

24. “Solid waste facility” means a facility for solid waste treatment, solid waste storage or solid waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. This term includes the land where the facility is located. This term does not include a facility for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes. This term does not include a facility which uses large machines to sort, grade, compact or bale clean waste paper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes. This term does not include an auto junk yard or scrap metal salvage yard.
25. “Solid waste treatment” means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. “Treatment” includes incineration.

26. “Waste tire” means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

27. “Yard waste” means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

107.04 SEPARATION OF RECYCLABLE MATERIALS. Occupants of single-family and 2- to 4-unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from post-consumer waste:

1. Lead acid batteries
2. Major appliances
3. Waste oil
4. Yard waste
5. Aluminum containers
6. Bi-metal container
7. Corrugated paper or other container board
8. Foam polystyrene packaging
9. Glass containers
10. Magazines
11. Newspaper
12. Office paper
13. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
14. Steel containers
15. Waste tires
107.05 SEPARATION REQUIREMENTS EXEMPTED. The separation requirements of Section 107.04 do not apply to the following:

1. Occupants of single-family and 2- to 4-unit residences, multiple-family dwellings and nonresidential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section 107.04 from solid waste in as pure a form as is technically feasible.

2. Solid waste which is burned as a supplemental fuel at a facility if less than thirty percent (30%) of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

3. A recyclable material specified in Section 107.04(5) through (15) for which a variance has been granted by the Wisconsin Department of Natural Resources under s. 159.11(2m), Wis. stats., or s. NR 544.14, Wis. Administrative Code.

107.06 CARE OF SEPARATED RECYCLABLE MATERIALS. To the greatest extent practicable, the recyclable materials separated in accordance with Section 107.04 shall be clean and kept free of contaminants such as food or product residue, oil or grease or other non-recyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

107.07 MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE OIL, YARD WASTE AND WASTE TIRES. Occupants of single-family and 2- to 4-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil, yard waste and waste tires as follows:

1. Lead acid batteries shall be delivered to the retailer or wholesaler from whom new lead acid batteries are purchased pursuant to the provisions of Iowa Code Section 455D.10.

2. Major appliances shall be placed in alleys or curbside not more than 48 hours prior to the annual spring clean-up day, as designated each year by the Council, and collected on the clean-up day by City personnel or a contractor engaged by the City for disposal to a commercial recycler. If, following collection, the capacitors are removed from microwave ovens, such microwave ovens shall no longer be deemed to be major appliances and may be disposed of in any solid waste facility.
3. Waste oil shall be delivered to an oil retailer, pursuant to Iowa Code Section 455D.13, or to a commercial recycler of waste oil.

4. Yard waste which is not managed on the premises on which it originates by composting or other lawful means shall be managed as follows:
   
   A. All yard waste shall be delivered to a site designated by the City for land application or composting in accordance with rules and regulations established by the Council for the yard waste management project at that location.

   B. Except as provided in paragraph D, below, no person shall deliver or deposit at the designated yard waste management site any yard waste generated or originating at any location outside of the corporate limits of the City.

   C. Except as provided in Section 106.08A, no fee shall be charged for yard waste delivered to the yard waste management site by the owner or occupant of the premises on which the yard waste originates or by any person who is not delivering the yard waste as part of a business operation.

   (Ord. 695 – Nov. 11 Supp.)

   D. No person shall deliver or deposit yard waste at the yard waste management site as part of a business operation or otherwise for a fee unless such person has obtained a permit and paid the annual permit fee. Permit applications shall be made to the Street Superintendent on a form provided by the City. The application shall include identifying information concerning the applicant and the applicant’s business operations as they relate to yard waste. Upon submission of a completed application and payment of the permit fee, the Street Superintendent shall issue an annual permit which shall be valid until the following June 30 and may be renewed upon payment of the annual permit fee. The annual fee shall be $250.00.

   (Ord. 615 – Dec. 06 Supp.)

5. Waste tires shall be delivered to tire retailers who accept waste tires.

107.08 PREPARATION OF RECYCLABLE MATERIALS AT RESIDENTIAL UNITS. Except as otherwise directed by the solid waste administrator, occupants of single-family and 2- to 4-unit residences shall do the following the preparation of the recyclable materials specified in Section 107.04 (5) through (14):
1. Aluminum containers shall be rinsed out and may, but need not be, crushed.

2. Bi-metal containers and steel containers shall be rinsed, removable labels must be removed, both ends cut out and the container flattened (if possible).

3. Corrugated paper or other container board shall be flattened, reduced by folding or cutting to surfaces with maximum length and width of two feet, and securely bundled if bulky. No waxy cardboard shall be recycled.

4. Glass containers shall be rinsed out with caps and rings removed. Labels need not be removed. Only unbroken clear, brown and green glass containers shall be recycled.

5. Magazines, newspapers and office paper shall be placed in grocery bags securely bundled.

6. Rigid plastic containers, including milk jugs, laundry detergent jugs, pop and liquor containers, and bleach jugs, shall be rinsed out with caps and rings removed.

107.09 COLLECTION OF RECYCLABLE MATERIALS FROM RESIDENTIAL UNITS. The following procedures shall apply to the collection from single-family and 2- to 4-unit residences of the recyclable materials specified in Section 107.04 (5) through (14):

1. The monthly charges set forth in subsections 1 and 2 of Section 106.08 include a rental fee for one 96 gallon recycling bin which shall be made available to each household unit by the collector furnishing residential solid waste collection services under contract with the City.  

   *(Ord. 753 – Nov. 17 Supp.)*

2. All recyclable materials separated pursuant to Section 107.04(5) through (14) shall, to the extent feasible, be placed by the occupants of such residential units in recycling bins. All types of recyclable materials may be placed in the same recycling bin.

3. All recycling bins containing recyclable materials shall be placed in alleys or curbside every other week for recyclable collection on the days designated by the recycling contractor engaged by the City. Recyclable materials which cannot be placed in recycling bins may be placed on or adjacent to such bins. Plastic containers not placed in recycling bins shall be strung together with strong string through the handles. Sorting of the recyclable materials shall be done by the recycling contractor.
4. No person shall place recyclable materials in alleys or curb side for collection with non-recyclable solid waste, nor shall any person place in any recycling bin any solid waste which is not a recyclable material.

107.10 RESPONSIBILITIES OF OWNERS OR AGENTS OF MULTIPLE-FAMILY DWELLINGS. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Section 107.04(5) through (14):

1. Provide adequate, separate containers for the recyclable materials.
2. Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.
3. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
4. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

The requirements of this section do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling the materials specified in Section 107.07(5) through (14) from solid waste in as pure a form as is technically feasible.

107.11 RESPONSIBILITIES OF OWNERS OR AGENTS OF NON-RESIDENTIAL FACILITIES AND PROPERTIES. Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in Section 107.04(5) through (14):

1. Provide adequate, separate containers for the recyclable materials.
2. Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the established recycling program.
3. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
4. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

The requirements of this section do not apply to the owners or designated agents of nonresidential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling the materials specified in Section 107.07(5) through (14) from solid waste in as pure a form as is technically feasible.

107.12 PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS SEPARATED FOR RECYCLING. No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Section 107.04(5) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

107.13 ENFORCEMENT.

1. For the purpose of ascertaining compliance with the provisions of this chapter, any authorized officer, employee or representative of the City may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, and any records relating to recycling activities which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the City who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.

2. Any person who violates a provision of this chapter commits a municipal infraction. The issuance of a municipal infraction citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.
CHAPTER 108

STORM AND SURFACE WATER DRAINAGE SYSTEM
UTILITY

108.01 Purpose
108.02 Definitions
108.03 Storm and Surface Water Drainage System
District Established
108.04 Rates
108.05 Responsibility for Increased Costs
108.06 Billing and Payment

108.07 Lien for Nonpayment
108.08 Lien Notice
108.09 Mobile Homes, Modular Homes and Manufactured Homes.
108.10 Use of Fund
108.11 Requirements for On-Site Storm and Surface Water Drainage Systems, Enforcement and Inspections

108.01 PURPOSE. The purpose of this chapter is to establish a Storm and Surface Water Drainage System Utility and provide a means of funding the construction, operation and maintenance of storm and surface water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

108.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.

2. "Residential unit" means any single structure containing no more than four households and no non-residential uses. Mobile home and manufactured home parks shall be treated as non-residential units.

3. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.
4. "Structure" includes all buildings accessory or appurtenant to a structure receiving separately metered municipal water service. The term includes all parking lots and other paved surfaces serving a particular structure.

5. "Unit" means each structure, or portion thereof, receiving separately metered municipal water service and, in addition, all other structures containing enclosed spaces which are not accessory or appurtenant to structures receiving separately metered municipal water service.

6. "User" means any person who uses a unit that maintains connection to, discharges to, or otherwise receives services from the City for storm and surface water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

(Ord. 752 – Nov. 17 Supp.)

108.03 STORM AND SURFACE WATER DRAINAGE SYSTEM DISTRICT ESTABLISHED. Pursuant to the authority of Iowa Code Section 384.84(5), the entire City is hereby declared a Storm and Surface Water Drainage System District for the purpose of establishing, imposing, adjusting and providing from the collection of rates for the operation and maintenance of storm and surface water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm and Surface Water Drainage System District.

108.04 RATES. Each user shall pay for storm and surface water drainage system services provided by the City. The rates for the operation, maintenance and improvement of the storm and surface water management facilities shall be collected by imposing a monthly rate on each unit as follows:

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Monthly Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each residential unit</td>
<td>$2.00</td>
</tr>
<tr>
<td>Each non-residential unit containing impervious surfaces totaling less than 25,000 square feet</td>
<td>$5.00</td>
</tr>
<tr>
<td>Each non-residential unit containing impervious surfaces totaling more than 25,000 square feet</td>
<td>$10.00</td>
</tr>
</tbody>
</table>

108.05 RESPONSIBILITY FOR INCREASED COSTS. Any user which discharges any substance into the storm and surface water drainage system which causes identifiable increases in the cost of operation or maintenance of the system shall pay for such increased costs. The charge to each such user shall be determined by the Street Superintendent and approved by the Council.

108.06 BILLING AND PAYMENT. All users shall be billed 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. The provisions contained in Sections 92.05
CHAPTER 108  STORM AND SURFACE WATER DRAINAGE SYSTEM UTILITY

and 92.08 relating to notices of delinquency, service discontinuation and lien notices shall also apply in the event of a delinquent sewer user charge, except there shall be no storm and surface water drainage service restoration fee if water service is also restored.

108.07 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for storm and surface water drainage charges to the premises. Storm and surface water drainage 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.

108.08 LIEN NOTICE. A lien for delinquent storm and surface water drainage charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer at least thirty (30) days prior to certification. 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.

108.09 MOBILE HOMES, MODULAR HOMES AND MANUFACTURED HOMES. A lien for nonpayment of utility services described in Section 108.04 shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

108.10 USE OF FUND. The money paid and collected pursuant to this chapter shall be held by the City in a special fund to be expended only for the purpose of construction, operation, managing, repair and maintaining all kinds of conduits, drains, storm water detention devices, flow impediments, ponds, ditches, sloughs, filter strips, rip-raps, erosion control devises and any other things and activities useful to the proper control management, collection, drainage and disposition of storm and surface water in the City.

108.11 REQUIREMENTS FOR ON-SITE STORM AND SURFACE WATER DRAINAGE SYSTEMS, ENFORCEMENT AND INSPECTIONS.

1. All property owners and developers of developed real property within the City shall provide, manage, maintain and operate on-site storm and surface water drainage systems sufficient to collect, convey, detain and discharge storm and surface water in a safe manner consistent with all city, state and federal laws and regulations.
2. Pursuant to Iowa Code Section 364.12(3) or successor section, any failure to meet this obligation may constitute a nuisance and may be subject to an abatement action filed by the City. In the event a nuisance is found to exist, which the owner fails to properly abate within such reasonable time as allowed by the City, the City may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. The City shall have the right, pursuant to the authority of this chapter, for its designated officers and employees to enter upon private and public property owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

(Ch. 108 - Ord. 749 – Dec. 16 Supp.)

[The next page is 577]
CHAPTER 110
NATURAL GAS FRANCHISE

110.01 FRANCHISE GRANTED. The City of Waukon, Iowa, (hereinafter referred to as “Grantor”) hereby grants a non-exclusive franchise to Aquila, Inc, d/b/a Aquila Networks, a Delaware corporation, (hereinafter called “Grantee”), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges and public rights-of-way as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

110.02 TERM; PERIODIC REVIEW. The rights and privileges granted by this chapter shall remain in effect for a period of ten (10) years from the effective date of the ordinance codified in this chapter (the “initial term”), followed by an additional period of ten (10) years after the expiration of the initial term (the “renewal term”), and an additional period of five (5) years after the expiration of the renewal term, unless the City notifies the Company in writing at least one hundred and eighty (180) days before the expiration of the initial term or renewal term that it desires not to renew the franchise. The effective date of the ordinance codified in this chapter shall be determined pursuant to state law.

110.03 GOVERNING RULES AND REGULATIONS.

1. This franchise is granted subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee shall be under the jurisdiction and control of
such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this franchise in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this franchise ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

2. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

110.04 CONSTRUCTION AND MAINTENANCE OF COMPANY FACILITIES.

1. Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

2. Grantee agrees that for the term of this grant, it will maintain facilities and equipment sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible.

3. Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee’s facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working
110.05 FRANCHISE FEE.

1. No franchise fee shall initially be imposed. However, Grantor reserves the right to impose a franchise fee at any time during the term of the franchise upon the enactment of a franchise fee ordinance by the City Council. If a franchise fee is imposed, Grantee shall collect from its customers, but not from Grantor, located within the corporate limits of the City, and pay to the Grantor an amount equal to the percentage of gross receipts derived from the sale, distribution or transportation of natural gas delivered within such area as specified in the ordinance, but not in excess of five percent (5%) of such gross receipts. Grantor shall give Grantee a minimum of ninety (90) days notice prior to the implementation of any franchise fee or any modification in the amount thereof. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for net write-off of uncollectible accounts and corrections of bills theretofore rendered.

2. If a franchise fee is imposed, the amount paid by Grantee shall be in lieu of, and Grantee shall be exempt from, all other occupation, license excise or right-of-way permit fees or taxes which the Grantor may impose for the rights and privileges herein granted or for the privilege of doing business within the City, and in the event any such fee, charge, license, tax or assessment shall be imposed by the Grantor, the payment to be made in accordance with the provisions of this section shall be reduced in an amount equal to the annual burden of such fee, charge, license, tax or assessment imposed upon the Grantee. Ad valorem property taxes imposed generally upon all real and personal property within the City shall not be deemed to affect the obligation of the Grantee under this section.

3. If imposed, franchise fees hereunder shall be reported and paid to the Grantor by Grantee on a monthly basis. Such payment shall be made not more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portion of the period at the beginning and end of the term of this franchise fee ordinance. Grantee shall list any local franchise fee collected from customers as a separate item on bills for utility service issued to customers.

4. The Grantor shall provide copies of annexation ordinances to Grantee on a timely basis to ensure appropriate franchise fee collection from customers within the corporate limits of the City.

5. Upon prior consultation with and approval from Grantor, Grantee may reduce the fee payable for gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

6. Grantor shall have access to and the right to examine during normal business hours, those of Grantee’s books, receipts, files, records and
documents that are necessary to verify the correctness of payments due hereunder. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery, such that any under-payment by Grantee shall be paid within 30 days of the recalculation and any over-payment by Grantee shall be discounted from the next payment(s) due.

110.06 EXTENSION OF COMPANY FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria and the applicable regulations of the Iowa Utilities Board, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

110.07 RELOCATION OF COMPANY FACILITIES.

1. The Grantee 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 Grantor 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; provided, however, that Grantee shall not be obligated to relocate its facilities or equipment situated in a public right-of-way, at its expense, unless the Grantor’s request for relocation is made to facilitate a public improvement and the Grantor provides the Grantee with a reasonable alternative location for its facilities. If the Grantee believes that the Grantor has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the Grantee installations, the Grantor will consider said alternative route. If relocation of the Grantee facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities and said other franchisee’s or user’s cost of relocation is less than the Grantee’s cost of relocation, the Grantor will consider the route that requires the other franchisees or users to relocate. If project funds from a source other than the Grantor are available to pay for the relocation of utility facilities, the Grantor shall use its best efforts to secure said funds and provide them to the Grantee to compensate the Grantee for the costs of relocation.

2. Grantor shall give Grantee written notice of the vacation of a public right-of-way. The vacation of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities in such right-of-way unless the reasonable cost of relocating the same is first paid to the Grantee.

3. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the Grantor and the Grantee.
and a pay a sum sufficient to cover the expense and damage incident to the moving of Grantee’s facilities and equipment.

110.08 CONFIDENTIAL INFORMATION. Grantor acknowledges that certain information it might request pursuant to this franchise may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to such proprietary or commercial value, Grantor and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. Grantor shall use all reasonable efforts to ensure that the confidentiality of Grantee’s confidential information is maintained.

110.09 FORCE MAJEURE. It shall not be a breach or default under this franchise if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, workforce stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

110.10 EMERGENCY RESPONSE. Grantee, during the term of the franchise, shall respond within a reasonable amount of time, in accordance with applicable state law, as may be amended from time to time, to gas leaks or other emergency situations involving Grantee’s facilities upon a request for assistance from fire, police or rescue authorities.

110.11 HOLD HARMLESS. Grantee, during the term of this franchise, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, that Grantee need not save harmless Grantor from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

110.12 NON WAIVER. Any waiver of any obligation or default under this franchise shall not be construed as a waiver of any future defaults, whether of like or different character.
110.13 CONFLICTING ORDINANCES REPEALED. This franchise ordinance, when accepted by Grantee, shall constitute the entire agreement between the Grantor and the Grantee relating to this franchise and the same shall supersede all prior ordinances pertaining to this franchise agreement, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 279 of the City is hereby repealed as of the effective date hereof.

<table>
<thead>
<tr>
<th>EDITOR’S NOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance No. 599 adopting a natural gas franchise for the City was passed and adopted on September 6, 2005.</td>
</tr>
</tbody>
</table>
CHAPTER 111

ELECTRIC FRANCHISE

111.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the "Company," its successors and assigns, the right and non-exclusive franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION. The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City. The said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 EXCAVATIONS. In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

111.04 LOCATION AND RELOCATION. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of
the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right of way that have been relocated at Company expense at the direction of the City during the previous ten years, the reasonable costs of such relocation will be paid by the City.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request for a commercial, private or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company’s facilities as part of its relocation request.

111.05  **UTILITY EASEMENTS.** Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities.

111.06  **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 performed in accordance with Company’s then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

111.07  **STATE REGULATIONS.** During the term of this franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company’s tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability.

111.08  **CONTINUOUS SERVICE.** Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09  **FRANCHISE FEE.** There is hereby imposed a franchise fee of three percent (3.0%) upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.
The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter.

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

111.10 FRANCHISE TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of ten (10) years from the effective date hereof (the "Initial Term"), followed by an additional period of ten (10) years after the expiration of the Initial Term (the "Renewal Term"), and an additional period of five (5) years after the expiration of the Renewal Term, unless the City notifies the Company in writing at least one hundred eighty (180) days before the expiration of the Initial Term or Renewal Term that it desires not to renew the franchise. Said term shall begin upon the written acceptance by the Company of the franchise. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

111.11 USE OF PUBLIC RIGHTS-OF-WAY. The rights granted to the Company under this ordinance shall be exercised in compliance with the provisions of City Code Chapter 141, Use of Public Rights-of-Way, as those provisions existed as of the date of enactment of this ordinance. If any amendments to Chapter 141 in conflict with the terms of this franchise ordinance are enacted, the terms of this franchise ordinance will control until the expiration of the current term of the franchise.

111.12 ENTIRE AGREEMENT. This Ordinance sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified or otherwise amended without the written approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City, during the term of the franchise, enact any Ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this Ordinance, that create additional burdens upon the Company, or which delay utility operations.

**EDITOR’S NOTE**

Ordinance No. 745 adopting an electric franchise for the City was adopted on June 20, 2016.
CHAPTER 112
CABLE TELEVISION FRANCHISE

112.01 GRANT OF FRANCHISE. A nonexclusive right and franchise are hereby granted to Mediacom Iowa, LLC, d/b/a/ Mediacom, its successors and assigns, to erect, maintain and operate plants and systems for cable television within the City upon the terms and subject to the conditions of the Cable Services Franchise Agreement incorporated herein.

112.02 SHORT TITLE. This chapter shall be known and cited at the Mediacom Cable Franchise.

112.03 DEFINITIONS. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory.

1. “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).

2. “Cable System” or “System” means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment or facilities located in the Franchise Area and designed and constructed primarily for the purpose of producing, receiving, transmitting, amplifying, or distributing video programming. System as defined herein shall not be inconsistent with the definitions set forth in 47 U.S.C. § 522(7).
3. “Cable Programming Service” means any video programming regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
   
   A. Basic Cable Service;
   
   B. Video programming offered on a pay-per-channel or pay-per-program basis; or
   
   C. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service consists of commonly-identified video programming and is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2) and 47 C.F.R. § 76.901(b).

4. “Cable Service” means the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and; subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

5. “Channel” means a single full motion video channel.

6. “City” means the City of Waukon, Iowa.

7. “Converter” means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber and by an appropriate selector permits a Subscriber to view all Subscriber signals included in the service.

8. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest feeder cable. This term only applies to Grantee’s delivery of Cable Service.

9. “Effective Competition” means the provision of Cable Service by two (2) or more franchised providers operating pursuant to franchise in the City, or a finding of Effective Competition designated by the FCC.

10. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

11. “Franchise” or “Cable Franchise” means this ordinance and the contractual relationship established hereby.

12. “Franchise Fee” means the fee or assessment imposed by the City on a Grantee solely because of its status as a recipient of a Cable Franchise. The term “Franchise Fee” does not include: (i) any tax, fee or
assessment of general applicability; (ii) capital costs which are required by this Franchise related to the provision of public, educational, or governmental access facilities; (iii) requirements or charges incidental to awarding or enforcing this Franchise, including payments for bonds, security funds or letters of credit, insurance, indemnification, penalties or liquidated damages, or other regulatory costs specifically required herein in addition to the Franchise Fee; (iv) any fee imposed under Title 17 of the United States Code.

13. “Grantee” is Mediacom Iowa LLC d/b/a Mediacom, its agents and employees, lawful successors, transferees or assignees.

14. “Gross Revenues” means all revenues received by the Grantee or its affiliates arising from the operation of the Cable System for the provision of Cable Service, including installations, digital service tiers, basic cable service, expanded basic cable service, guide revenues, equipment rentals, premium services, pay-per-view (including video-on-demand), wire maintenance, FM service, late fees, miscellaneous revenue, advertising revenues, upgrade and downgrade fees, revenues generated by sales or home shopping channel(s), leased channel fees, converter and equipment rental fees, and revenues from fiber and tower leasing. The term Gross Revenues shall not include bad debt (unless collected), or any taxes on services furnished by Grantee which are imposed by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

15. “Installation” means the connection from feeder cable to the point of connection with the Subscriber Converter. This term only applies to Grantee’s delivery of Cable Service.

16. “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.

17. “Normal Operating Conditions” means those service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee 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 Grantee 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 System.
18. “PEG Access” means public, educational, governmental and other public interest programming channels, equipment, facilities, funding, or operations as the context may require.

19. “Pay Television” means the delivery of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.

20. “Person” is any person, firm, partnership, association, corporation, company, or other legal entity.

21. “Right-of-Way” or “Rights-of-Way” means the area on, below, or above any real property in the Franchise Area in which the City has an interest including, but not limited to any street, road, highway, alley, sidewalk, parkway, park, skyway, or any other place, area, or real property owned by or under the control of the City, including other dedicated Rights-of-Way for travel purposes and utility easements.

22. “Right-of-Way Ordinance” means the ordinance adopted by the City creating requirements regarding regulation, management and use of Rights-of-Way, including registration and permitting requirements.

23. “Standard Installation” means any residential installation which can be completed using a Drop of 200 feet or less. This term only applies to Grantee’s delivery of Cable Service.

24. “Subscriber” means any Person who lawfully receives Cable Service from Grantee or over Grantee’s network.

112.04 GRANT OF AUTHORITY AND GENERAL PROVISIONS.

1. Grant of Franchise.

A. This Franchise is granted pursuant to the terms and conditions contained herein.

B. The Grantee shall have the right and privilege pursuant to this Franchise to provide Cable Service in the City.

C. Use of the Rights-of-Way to provide Cable Service shall not be inconsistent with the terms and conditions by which such Rights-of-Way were created or dedicated and is subject to all legal requirements related to the use of such Rights-of-Way, including the terms and conditions of the Right-of-Way Ordinance.

D. This Franchise shall be nonexclusive. Any additional franchise must be granted consistent with Iowa Code Ann. § 364.2 (4) (g) (2004).
2. Lease or Assignment Prohibited. Other than for the provision of commercial leased access and/or provision of access over an open video system, no Person may lease Grantee’s network for the purpose of providing Cable Service until and unless such Person shall have first obtained and shall currently hold a valid Franchise. Any assignment of rights under this Franchise shall be subject to and in accordance with the requirements of Section 112.11 (5).

3. Franchise Term. This Franchise shall be in effect for an initial period of ten (10) years from the date of acceptance by Grantee. Thirty (30) to Thirty-six (36) months prior to the completion of the initial period, Grantee may request an additional Five (5) year extension of this Franchise, which the City in its sole discretion shall grant or deny within ninety (90) days of the request. Notwithstanding, this Franchise shall be subject to periodic evaluation not less than every five (5) years as provided in Section 112.09 (6) herein.

4. Compliance with Applicable Laws, Resolutions and Ordinances. The terms of this Franchise shall define the contractual rights and obligations of Grantee with respect to the provision of Cable Service and operation of any System in the City. However, the Grantee shall at all times during the term of this Franchise be subject to all lawful exercise of the police power, local ordinance-making authority, and eminent domain rights of the City.

5. Territorial Area Involved. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time. In the event of annexation by City or as development occurs, any new territory shall become part of the territory for which this Franchise is granted. In addition, the City and Grantee acknowledge that as of the effective date of this Franchise, the Grantee intends to provide service to the entire Franchise Area.

6. Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City’s Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to Grantor: City of Waukon
101 Allamakee Street
Waukon, Iowa 52172-1798

CODE OF ORDINANCES, WAUKon, IOWA
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CHAPTER 112 CABLE TELEVISION FRANCHISE

112.05 CONSTRUCTION STANDARDS.

1. Registration, Permits and Construction Codes.
   A. Grantee shall strictly adhere to all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the facilities used to provide Cable Service in the City Franchise Area.
   B. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and pursuant to Section 112.06 (6) herein, to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.
   C. Nothing in this Franchise shall be construed to prevent the City from adopting and enforcing a Rights-of-Way Ordinance.

2. Grantee shall bury all Drops in a reasonable time period, which shall not exceed thirty (30) business days, subject to weather conditions. In the event the ground is frozen, Grantee shall be permitted to delay burial until the ground is suitable for burial which in no event shall be later than June 30th.

3. Erection, Removal and Joint Use of Poles. No poles, conduits, amplifier boxes, similar structures, or other wire-holding structures shall
be erected or installed by the Grantee on public property without prior approval of the City with regard to location, height, type and other pertinent aspects. Facilities located on public and private property shall be subject to applicable zoning and other land use regulations.

4. Safety Requirements.

A. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

B. The Grantee shall install and maintain its equipment and facilities in accordance with all federal, state and local laws and regulations, and the requirements of the National Electric Safety Code and in such manner that they will not interfere with private radio, police and fire communications or any installations of City or of any public utility serving City.

C. All facilities structures, and lines, equipment and connections in, over, under and upon the Rights-of-Way, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of the City or any Person.

112.06 SYSTEM DESIGN AND EXTENSION PROVISIONS.

1. Channel Capacity.

A. Grantee shall develop, construct and engineer, and activate and provide for the term of this Franchise a network which is capable of delivering a minimum of 100 video channels.

B. All programming decisions remain the discretion of Grantee; provided, however, that any change in the broad categories of video programming or other information services shall require the approval of the City consistent with 47 U.S.C. § 544(b), and further provided that Grantee notifies the City and Subscribers in writing thirty (30) days prior to any channel additions, deletions, or realignments, in a manner consistent with federal law. Grantee shall conduct programming surveys from time to time to obtain input on programming decisions from Subscribers.
CHAPTER 112  CABLE TELEVISION FRANCHISE

2. Service Availability/Density Requirement.
   A. Grantee shall be required to extend Service to all dwelling units in the City where there are thirty (30) dwelling units or more per cable mile. Grantee shall not impose a special or individualized charge for the cost of such extension of Cable Service.
   
   B. Grantee shall also extend Service to Persons requesting Service where the density is insufficient to require extension without any special or individualized charge. In such case, Grantee shall extend service at a cost not to exceed the construction costs per mile multiplied by a fraction whose numerator equals the actual number of dwelling units per mile, and whose denominator equals thirty (30). Those Persons requesting Service will bear the remainder of the construction costs on a pro rata basis. The Grantee may require that the payment of these costs by such potential Subscribers be made in advance. Access to Cable Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given 24 months, weather permitting, to construct and activate Cable Service to annexed or newly developed areas.

3. Non-Standard Installations. Grantee shall install and provide Cable Service to any Person requesting other than a Standard Installation provided that said Cable Service can meet FCC technical specifications. In such case, Grantee may charge for the incremental increase in material and labor costs incurred beyond the Standard Installation.

4. Provision of Services. The Grantee shall render effective Service, make repairs promptly, and interrupt Service only for good cause and for the shortest time possible. Such interruption, to the extent feasible, shall be preceded by notice to the City and Subscribers and shall occur during periods of minimum use of the Services, as determined by records of the Grantee.

5. Technical Standards. The technical standards used in the provision of Cable Service shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by
reference. Any failure to comply with the FCC technical standards shall be a violation of this Franchise.

6. Performance Review and System Testing. In the event City finds that there are signal or System performance difficulties which may constitute violations of applicable FCC technical standards and this Franchise, Grantee shall be notified and afforded thirty (30) days to correct problems or complaints. If the performance difficulty is not resolved after the cure period has elapsed in City’s sole determination, City may require Grantee to demonstrate compliance via testing or other means selected by the Grantee.

7. FCC Reports. Upon Request, Grantee shall file with City all required FCC technical reports which demonstrate the level of System performance and signal quality. Further, Grantee shall summarize and explain the results of any such testing provided to the City.

112.07 SERVICE PROVISIONS.

1. Enforcement of Customer Service Standards. The City intends to stay enforcement of this subsection to the extent Effective Competition exists. Notwithstanding, the City may initiate enforcement of this subsection despite the existence of Effective Competition based on the City’s receipt of at least ten (10) complaints within a thirty (30) day period concerning similar customer service matters. The City may initiate enforcement of this subsection by Resolution of the City Council. The City shall provide Grantee thirty (30) days notice prior to the vote of the Resolution. The City may begin enforcement three (3) days after mailing a copy of such approved Resolution to Grantee. The Resolution shall indicate the basis for initiating enforcement.

2. Regulation of Service Rates.

A. The City may regulate rates for the provision of Cable Service to the extent allowed under federal or state law(s).

B. A list of Grantee’s current residential Subscriber rates and charges shall be maintained on file with the City and shall be available for public inspection. Grantee shall give the City and Subscribers written notice of any change in a rate or charge in accordance with any applicable FCC requirements unless such change arises from changes in regulatory fees, franchise fees, access costs, or franchise imposed costs.

3. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing any of its services within City. Grantee shall
have the right to market consistent with local ordinances and other applicable laws and regulations.

4. Telephone Inquiries and Complaints.

A. Availability Grantee will maintain local, toll-free or collect call telephone access lines which will be available to its Subscribers 24 hours a day, seven days a week. During Normal Business Hours, trained representatives of Grantee shall be available to respond to Subscriber inquiries. Grantee will ensure that: (1) an adequate number of trained company representatives will be available to respond to customer telephone inquiries during Normal Business Hours, and; (2) after Normal Business Hours, the access line will be answered by a trained company representative or a service or an automated response system such as an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained company representative on the next business day.

B. Telephone Answer Time and Busy Signals. 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 time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a quarterly basis. Under Normal Operating Conditions, the customer will receive a busy signal less than three (3) percent of the time.

5. Installation, Outage and Service Calls. Under Normal Operating Conditions which will exclude the initial deployment period, each of the following standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis: (1) Excluding conditions beyond the control of Grantee which prevent performance, Grantee will begin working on service interruptions promptly, and in no event later than twenty-four (24) hours after the interruption becomes known, and Grantee must begin actions to correct other service problems the next business day after notification of the service problem and resolve such problems as soon as is reasonably possible; (2) The “appointment window” alternatives for Installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. The Grantee may schedule service calls and other installation activities outside of Normal
Business Hours for the convenience of the customer; (3) Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment; (4) If a representative of Grantee 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 during Normal Business Hours which is convenient for the customer.

6. Service Calls and Other Service Records. Subject to Grantee’s obligation to maintain the privacy of certain information, Grantee shall prepare and maintain written records of all service calls (which includes all complaints) received and the resolution of such complaints, including the date of such resolution. Such written records shall be on file, or be available electronically, at the office of Grantee. Upon request, Grantee shall provide the City with a written summary of service issues and their resolution on a quarterly basis and in a form mutually agreeable to City and Grantee. Grantee may be required to provide detailed compliance reports on a quarterly basis with respect to the objectively measurable service standards herein upon written demand by the City.

7. Subscriber Contracts. Grantee shall provide to City upon request any standard form Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall provide a document completely and concisely stating the length and terms of the Subscriber contract offered to customers.

8. Billing and Subscriber Communications. Grantee must give Subscribers thirty (30) days advance written notice with copy to City before any changes in rates, programming services, or channel positions. Bills must be clear, concise, and understandable, with itemization including but not limited to, basic and premium 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 30 days.

9. Refunds and Credits. If Service is interrupted or discontinued for 24 or more consecutive hours and Grantee has notice of such interruption, Subscribers shall be credited pro rata for such interruption beginning with the date of notice of interruption. Credits for will be issued no later than the Subscriber’s next billing cycle following the determination that a credit is warranted. In the event a Subscriber establishes or terminates Service and receives less than a full month’s Service, Grantee shall prorate the monthly rate on the basis of the
number of days in the period for which Service was rendered to the number of days in the billing. Refund checks will be issued promptly, but no later than the return of the equipment supplied by the Grantee if Service is terminated. Grantee shall not be held responsible for interruptions in programming caused by content providers.

10. Late Fees. Fees for the late payment of bills shall not accrue until the normal billing cut-off for the next month’s service approximately one (1) month after the unpaid bill in question was sent to the Subscriber. Payments at the cable operator’s drop-box location shall be deemed received on the date such payments are picked up by the cable operator which shall occur within 24 hours after every due date. The cable operators shall continue to provide a “grace period” of at least five (5) days after each due date.

11. Local Office/Drop Box. Grantee shall maintain a local office or a local drop box for receiving Subscriber payments after hours in the City, or provide customers with an alternative payment method for receiving payments on the same day.

12. Additional Customer Service Requirements. The City expressly reserves authority to adopt additional or modified customer service requirements to address subscriber concerns or complaints in accordance with federal law.

13. Violations. Any violation of these requirements after enforcement of this section is initiated by Council Resolution shall be deemed a violation of this Franchise, subject to notice to Grantee and an opportunity to cure as defined in Section 112.10 (1).

112.08 PEG & INSTITUTIONAL SERVICES PROVISIONS.

   A. PEG Responsibility. City or its designee is hereby designated to operate, administer, promote and manage PEG Access in accordance with this subsection.
   B. PEG Channels. City may request Grantee to dedicate one (1) channel for PEG Access use. Nothing herein shall diminish the City’s right to secure additional channels. Grantee may not move or renumber the PEG Access channels without the written approval of the City. Grantee shall be given up to six (6) months to plan, budget, design and construct a PEG channel to be operated by the City or City’s designee.
C. PEG Availability. Grantee shall provide to each of its Subscribers who receive all, or part of, the total Cable Services offered over its network, reception on the PEG Access channel(s) free of charge. The specially designated access channel may be used by the public, local educational authorities and local government on a first-come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the public, educational authorities or local government, the Grantee may lease time to commercial or noncommercial users on a first-come, first-served, nondiscriminatory basis if the demand for that time arises. Grantee may also use this specially designated access channel for local origination during those hours when the channel is not in use by the public, local educational authorities, local government, or commercial or noncommercial users who have leased time.

D. PEG Support. Upon ninety (90) days notice by the City, Grantee shall pay a PEG Fee of up to $.50 (fifty cents) per subscriber per month in order to pay for any cable-related purpose, including PEG programming, cable and fiber construction to government buildings, and cable and fiber construction to unserved areas of the City that do not meet the density requirements of Section 112.06 (2) herein. Upon request, Grantee will construct to unserved areas of the City that do not meet the density requirements of Section 112.06 (2) herein at its actual cost and in a reasonable time agreed upon by the City and Grantee prior to construction. In the event that the density requirements are met following such construction, Grantee shall reimburse the City for the cost of such construction. In each year of the contract the PEG Fee cap will be adjusted for inflation and rounded up to the nearest cent according to increases in the Consumer Price Index.

E. Charges for Use. Channel time and playback of prerecorded programming on the PEG access and community program channel(s) must be provided without charge to the City and the public.

F. The City, or its designee may implement rules for use of any access channel(s).

2. Cable Service to Public Buildings. Grantee shall provide, free of charge, installation of one (1) Drop, one (1) cable outlet, and monthly video Service, excluding premium channels or any pay-per-view
services, to all City and School facilities listed in Exhibit A and such other institutions which the City and Grantee may mutually agree. Drops to subsequently designated institutions in excess of 200 feet shall be provided by the Grantee at Grantee’s actual cost to the requesting institution, less the cost of the 200 feet closest to the building. Grantee shall have six (6) months from the date of the City designation of additional institution(s) to complete construction of the Drop and outlet, weather permitting. Additional Drops and/or outlets shall be provided by Grantee at Grantee’s actual cost. Alternatively, at the institution’s request, said institution may add outlets at its own expense, as long as such Installation meets applicable FCC technical standards. No redistribution of the free Service provided pursuant to this Subdivision shall be allowed without the Grantee’s prior written consent. In the event that Grantee provides only digital service, Grantee shall provide a digital receiver for each outlet installed pursuant to this subsection.

3. High Speed Data Services. In consideration of Section 112.13 (9) herein, Grantee shall make available to the City buildings designated on Exhibit A, one cable modem and high speed data connectivity (Internet Service) at no cost to the City. Upon request by the City, Mediacom agrees to construct at its actual cost any fiber and cable connections for the City’s use, provided such use is made under a services agreement with Grantee.

112.09 OPERATION AND ADMINISTRATION PROVISIONS.

1. Administration of Franchise. The City or its designee shall have continuing regulatory jurisdiction and supervision over the Services described herein and the Grantee’s operation under the Franchise.

2. Delegated Authority. The City shall have authority to administer the Franchise and to monitor the performance of the Grantee pursuant to the Franchise. The City may withdraw or re-delegate such authority by giving Grantee written notice. Grantee shall cooperate with any such delegatee of the City.

3. Franchise Fee.

A. From the Effective Date of the Franchise Grantee shall pay to the City a Franchise Fee in an annual amount equal to five percent (5%) of its Gross Revenues. The City reserves the right to reduce or increase the franchise fee by approval of the City Council if allowed by applicable law, in the City’s sole discretion. City shall provide Grantee 90 days notice prior to consideration of any change in franchise fee.
B. Any payments due under this provision shall be payable quarterly. The payment shall be made within sixty (60) days of the end of each of Grantee’s current fiscal quarters together with a report in form reasonably acceptable to City and Grantee and which shows the basis for the computation.

C. All amounts paid shall be subject to audit and recomputation by the City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount.

4. Access to Records. The City shall have the right to inspect, upon reasonable notice and during Normal Business Hours, any records maintained by Grantee which relate to this Franchise or System operations including specifically Grantee’s revenue records, subject to the privacy provisions of 47 U.S.C. § 521 et seq. Grantee shall be required to provide such requested documents to the City unless such documents are available for inspection at a location in City.

5. Reports to be Filed with the City. Grantee shall file with the City, at the time of payment of the Franchise Fee, a report of all Gross Revenues and upon request certified by an officer of the Grantee. Grantee shall prepare and furnish to the City such other reports with respect to the operations, affairs, transactions or property, as they relate to this Franchise or Cable Services as City may request. The form of such reports shall be mutually agreed upon by City and Grantee.


A. The City may require evaluation sessions during the term of this Franchise not more than annually, upon thirty (30) days written notice to Grantee. Grantee and City shall hold evaluation sessions after the fifth and tenth years of this franchise.

B. All evaluation sessions shall be open to the public.

C. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, System performance, programming offered, access channels, facilities and support, municipal uses of cable, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics the City and Grantee deem relevant.

D. As a result of a periodic review or evaluation session, the City may request Grantee to amend the Franchise to provide additional services or facilities as are mutually agreed upon and
which are both economically and technically feasible taking into consideration the remaining life of the Franchise.

112.10 GENERAL FINANCIAL AND INSURANCE PROVISIONS.

1. Performance Bond.

A. At the time the Franchise becomes effective and at all times thereafter, until the Grantee has liquidated all of its obligations with the City, the Grantee shall furnish a bond to the City, naming the other municipalities comprising the Franchise Area as additional obligees, in the amount of Five Thousand Dollars ($5,000.00) in a form and with such sureties as are reasonably acceptable. A single bond may be provided to all of the municipalities comprising the Franchise Area.

B. The bond must be conditioned upon the faithful performance of the Grantee according to the terms of the Franchise and upon the further condition that in the event the Grantee shall fail to comply with any law, ordinance or regulation governing the Franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorneys’ fees and costs, up to the full amount of the bond, and further guaranteeing payment by the Grantee of claims, liens and taxes due the City which arise by reason of the construction, operation, or maintenance of the System.

C. The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under the Franchise or any other law. The City may, from year to year, in its sole discretion, reduce the amount of the bond.

D. The Grantee shall be given thirty (30) days notice of any franchise violation, or other claim, liability or obligation giving rise to City’s right to make a claim under the bond. In the event the violation, claim, liability, or obligation is not cured, corrected or satisfied within this thirty (30) day cure period, in City’s determination, the City may make a claim pursuant to the bond. The City may grant additional time beyond the initial cure period before making a claim under the bond in the event Grantee requests additional time and the City determines that the Grantee
has made a good faith effort towards cure and such additional time is necessary to completely cure the alleged violation.

E. In the event this Franchise is revoked or the rights hereunder relinquished or abandoned by Grantee, the City shall be entitled to collect from the performance bond any resultant damages, costs or liabilities incurred by the City.

F. The rights reserved to the City with respect to the performance bond shall not be deemed an exclusive remedy and are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the performance bond shall affect any other right the City may have.

2. Letter of Credit.

A. The City intends to stay enforcement of this subsection to the extent Effective Competition exists. Notwithstanding, in the event the City initiates enforcement of this Franchise through adoption of a Resolution of the City Council and determines that additional security is necessary or desirable to secure compliance with this Franchise, or the City shall determine that Effective Competition has ceased, Grantee shall, upon written notice from the City, deliver to the City an irrevocable and unconditional Letter of Credit, in form and substance acceptable to the City, from a National or State bank approved by the City, in the amount of Seven Thousand Five Hundred Dollars ($7,500).

B. The Letter of Credit shall provide that funds will be paid to the City, upon written demand of the City, and in an amount solely determined by the City in payment for liquidated damages charged pursuant to this subdivision or in payment for any monies owed by Grantee pursuant to its obligations under this Franchise.

C. In addition to recovery of any monies owed by Grantee to the City, the City, in its sole discretion, may charge to and collect from the Letter of Credit liquidated damages in an amount of up to Two Hundred Fifty Dollars ($250.00) per violation per day of any provision of this Franchise or applicable federal, state, or local law or regulations, pursuant to this subsection.

D. Whenever the City finds that Grantee has violated one or more terms, conditions or provisions of this Franchise, a written notice shall be given to Grantee informing it of such violation. Grantee shall have thirty (30) days from receipt of such notice in
which to cure such violation in which event no liquidated damages may be assessed. At any time after the cure period, provided Grantee remains in violation of one or more terms, conditions or provisions of this Franchise, in City’s sole determination, the City may draw from the Letter of Credit all assessments or monies due the City from the date of the notice. The City may grant additional time beyond the initial cure period in the event the City determines such additional time is necessary to cure the alleged violation.

E. Grantee may notify the City in writing during the cure period that there is a dispute as to whether a violation or failure has in fact occurred. Grantee shall specify with particularity the matters disputed and the basis for dispute. All liquidated damages assessments shall continue to accrue.

F. The City shall hear Grantee’s dispute at the next regularly scheduled meeting or within sixty (60) days of receipt of said notice of dispute, whichever is shorter.

G. In the event City determines that a violation has taken place, such determination shall be deemed final, subject to Grantee’s right to appeal such final determination to a court or forum of competent jurisdiction.

H. In the event City determines that no violation has taken place, the City shall rescind the notice of violation.

I. If said Letter of Credit or any subsequent Letter of Credit delivered pursuant thereto expires prior to the expiration of the term of this Franchise, it shall be renewed or replaced during the term of this Franchise to provide that it will not expire prior to the expiration of this Franchise. The renewed or replaced Letter of Credit shall be of the same form and amount and with a bank authorized herein.

J. If the City draws upon the Letter of Credit or any subsequent Letter of Credit delivered pursuant hereto, in whole or in part, Grantee shall replace the same within ten (10) days and shall deliver to the City a like replacement Letter of Credit for the full amount stated in Paragraph A of this subsection as a substitution of the previous Letter of Credit.

K. If any Letter of Credit is not so replaced, the City may draw on said Letter of Credit for the whole amount thereof and use the proceeds as the City determines in its sole discretion. The
failure to replace any Letter of Credit may also, at the option of the City, be deemed a default by Grantee under this Franchise. The drawing on the Letter of Credit by the City, and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of Grantee which are in default, shall not be a waiver or release of such default.

L. The collection by the City of any monies or penalties from the Letter of Credit shall not be deemed an exclusive remedy and shall not affect any other right or remedy available to the City, nor shall any act, or failure to act, by the City pursuant to the Letter of Credit, be deemed a waiver of any right of the City pursuant to this Franchise or otherwise.

3. Indemnification of the City.

A. The City, its officers, boards, committees, commissions, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System or as to any other action or event with respect to this Franchise.

B. Grantee shall indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise, administration, or enforcement of the Franchise. Grantee’s obligations herein shall not include any alleged or actual liability which is based solely on City’s operation of PEG access facilities or equipment or the programming provided via such PEG facilities or equipment.

C. Nothing in this Franchise relieves a Person, except the City, from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee’s facilities while performing work connected with grading, regarding, or changing the line of a Right-of-Way or public place or with the construction or reconstruction of a sewer or water system.

D. In order for City to assert its rights to be indemnified, defended, and held harmless, City must, with respect to each claim:
(1) Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right.

(2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and

(3) Fully cooperate with reasonable requests of Grantee, at Grantee’s expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to Paragraph B above.

4. Insurance.

A. Grantee shall, with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, in protection of the Grantee, the City, its officers, boards, commissions, agents and employees for damages which may arise as a result of this Franchise.

B. The policies of insurance shall be in the sum of not less than One Million Dollars ($1,000,000.00) for personal injury or death of any one Person, and Two Million Dollars ($2,000,000.00) for personal injury or death of two or more Persons in any one occurrence, Five Hundred Thousand Dollars ($500,000.00) for property damage to any one person and Two Million Dollars ($2,000,000.00) for property damage resulting from any one act or occurrence.

C. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after sixty (60) days advance written notice have been provided to the City.

112.11 SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE.

1. City’s Right to Revoke. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required here in it is determined that:
A. Grantee has violated any material provision of this Franchise and failed to timely cure; or
B. Grantee has attempted to evade any of the material provisions of the Franchise; or
C. Grantee has practiced fraud or deceit upon the City or Subscriber.
D. The City may revoke this Franchise without the hearing required herein if Grantee files for bankruptcy.

A. The City shall provide Grantee with written notice of intent to revoke the Franchise which shall identify the basis of the revocation. Grantee shall have thirty (30) days subsequent to receipt of the notice in which to cure the violation or to provide adequate assurance of performance in compliance with the Franchise.
B. City shall schedule a public hearing affording Grantee due process prior to revocation. The public hearing shall be scheduled after the end of the cure period and within ninety (90) days of the date of the notice of revocation. Notice of the hearing shall be provided to Grantee.
C. The City shall provide Grantee with written notice of its final decision together with written findings of fact supplementing said decision. Only after Grantee receives written notice of the determination by the City to revoke the Franchise may Grantee appeal said decision.
D. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

3. Abandonment of Service. Grantee may not discontinue providing video programming services without having first given three (3) months written notice to the City.

4. Removal After Abandonment, Termination or Forfeiture.
A. In the event of termination or forfeiture of the Franchise or abandonment of the System, the City shall have the right to require Grantee to remove all or any portion of the System from all Rights-of-Way and public property within the City, subject to the authority of the Member Municipalities; provided, however, that the Grantee shall not be required to remove the System if it is
authorized to provide telecommunications service pursuant to state or federal law.

B. If Grantee has failed to commence removal of System, or such part thereof as was designated by the City, within one hundred twenty (120) days after written notice of the City demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of the City demand for removal is given, the City shall have the right to apply funds secured by the Letter of Credit and Performance Bond toward removal and/or declare all right, title, and interest to the System to be in the City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it pursuant to the provisions of 47 U.S.C. § 547.

5. Sale or Transfer of Franchise.

A. No sale, transfer, or corporate change of or in Grantee or the System, including, but not limited to, the sale of a majority of the entity’s assets, a merger including the consolidation of a subsidiary and parent entity, or the creation of a subsidiary or affiliate entity, shall take place until the parties to the sale, transfer, or corporate change file a written request with the City for its approval and such approval is granted by the City, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.

B. Any sale, transfer, exchange or assignment of stock or other equity interest in Grantee so as to create a new controlling interest shall be subject to the requirements of this Section 112.11 (5). The term “controlling interest” as used herein means actual working control in whatever manner exercised.

C. The City shall have such time as is permitted by applicable federal law in which to review a transfer request.

D. The Grantee shall reimburse City for all the legal, administrative, and consulting costs and fees associated with the City’s review of any request to transfer. Nothing herein shall prevent Grantee from negotiating partial or complete payment of such costs and fees by the transferee.

E. In no event shall a sale, transfer, corporate change, or assignment of ownership or control pursuant to Paragraph (A) or
(B) of this subsection be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations hereunder, and assuming all other rights and obligations of the transferor to the City.

F. In the event of any proposed sale, transfer, corporate change, or assignment pursuant to Paragraph (A) or (B) of this subsection the City shall have the right to purchase the System. In the event Grantee has received a bona fide offer for purchase of the System, the City shall have the right to purchase in accordance with the terms thereof. The Grantee must promptly convey such offer to the City along with any written acceptance. As used in this paragraph, “bona fide offer” means an offer to purchase the System received by the Grantee which it intends to accept. In any other event, the City shall have the right to purchase the System for an equitable price and upon commercially reasonable terms.

G. The City shall be deemed to have waived its right to purchase under in the following circumstances:

(1) If it does not indicate to Grantee in writing, within sixty (60) days of notice of a proposed sale or assignment, its intention to exercise or reserve its right of purchase; or

(2) It approves the assignment or sale of the Franchise as provided within this subsection.

112.12 PROTECTION OF INDIVIDUAL RIGHTS.

1. Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability. Grantee shall comply at all times with all other applicable federal, state, and local laws, and all executive and administrative orders relating to nondiscrimination.

2. Subscriber Privacy.

A. Grantee shall comply with the subscriber privacy-related requirements of 47 U.S.C. § 551. No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the
Subscriber. No penalty shall be invoked for a Subscriber’s failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for the purpose of monitoring individual viewing patterns or practices.

B. No lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber’s failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

C. Written permission from the Subscriber shall not be required for the conducting of System wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in Paragraph (B) of this subsection.

112.13 MISCELLANEOUS PROVISIONS.

1. Franchise Renewal. Any renewal of this Franchise shall be performed in accordance with applicable federal, state and local laws and regulations. The term of any renewed Franchise shall be limited to a period not to exceed fifteen (15) years.

2. Work Performed by Others. All obligations of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise, however, in no event shall any such subcontractor or other Person performing work obtain any rights to maintain and operate a System or provide Cable Service. Grantee shall provide notice to the City of the name(s) and address(es) of any entity, other than Grantee, which performs over $5,000 of services annually pursuant to this Franchise involving the Right-of-Way, public property or new System construction or System upgrade.
3. Amendment of Franchise Ordinance. Grantee and the City may agree, from time to time, to amend this Franchise. Such written amendments may be made subsequent to a review session pursuant to Section 112.09 (6) or at any other time if the City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws, provided, however, nothing herein shall restrict the City’s exercise of its police powers.

4. Force Majeure. In the event Grantee’s performance of any of the terms, conditions, obligations or requirements of this Franchise is prevented due to a cause beyond its control, such failure to perform shall be excused for the period of such inability to perform.

5. Compliance with Federal, State and Local Laws.
   A. Grantee and the City shall conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.
   B. If any term, condition or provision of this Franchise shall, to any extent, be held to be invalid or unenforceable, the remainder and all the terms, provisions and conditions herein shall, in all other respects, continue to be effective provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding.

6. Nonenforcement by City. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance. The City may only waive its rights hereunder by expressly so stating in writing. Any such written waiver by the City of a breach or violation of any provision of this Franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.

7. Rights Cumulative. All rights and remedies given to the City by this Franchise or retained by the City shall be in addition to and not
exclusive of any and all other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity.

8. Grantee Acknowledgment of Validity of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes the City has the power to make the terms and conditions contained in this Franchise.

9. Other Authorizations. The City shall grant all additional cable television franchises, including authorizations for Open Video Systems and for video service provided via an integrated internet protocol platform, in accordance with Iowa Code Section 364.2, subdivision 4(g).

In addition to the foregoing, the City in consideration of the benefits conferred upon it by the Grantee’s investment in the cable related needs and interests of the City, the City agrees that neither it nor any utility under it’s control and/or ownership commences provision of Cable Service in any part of Grantee’s Service Area during the term of this Franchise.

112.14 PUBLICATION, EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS.

1. Publication, Effective Date. This Franchise shall be published in accordance with applicable local and Iowa law. The Effective Date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of subsection 2 of this section.

2. Acceptance.
   A. Grantee shall accept this Franchise within sixty (60) days of its enactment by the City, unless the time for acceptance is extended by the City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes provided. In the event acceptance does not take place, or should all ordinance adoption procedures and timelines not be completed, this Franchise and any and all rights previously granted to Grantee shall be null and void.
   B. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.
   C. Grantee shall accept this Franchise in the following manner:
(1) This Franchise will be properly executed and acknowledged by Grantee and delivered to the City.

(2) With its acceptance, Grantee shall also deliver any grant payments, performance bond and insurance certificates required herein that have not previously been delivered.

(Ord. 623 – Dec. 06 Supp.)

EDITOR’S NOTE
Ordinance No. 623 adopting a cable television franchise for the City was passed and adopted on December 4, 2006.
Exhibit A  
City of Waukon Cable Franchise

City Buildings

<table>
<thead>
<tr>
<th>Building</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Hall</td>
<td>101 Allamakee Street</td>
</tr>
<tr>
<td>Robey Memorial Library</td>
<td>401 1st Avenue NW</td>
</tr>
<tr>
<td>Fire station</td>
<td>11 1st Avenue NE</td>
</tr>
<tr>
<td>Police Department</td>
<td>104 1st Street NW</td>
</tr>
<tr>
<td>Aquatic Center</td>
<td>1013 Rossville Road</td>
</tr>
<tr>
<td>Veterans Memorial Hospital</td>
<td>40 1st Street SE</td>
</tr>
<tr>
<td>Wellness Center</td>
<td>[INSERT ADDRESS]</td>
</tr>
<tr>
<td>Northeast Iowa Community College</td>
<td>[INSERT ADDRESS]</td>
</tr>
<tr>
<td>Waukon Economic Development Corporation</td>
<td>101 West Main</td>
</tr>
<tr>
<td>Street Department</td>
<td>205 7th Avenue SE</td>
</tr>
<tr>
<td>Water Works</td>
<td>819 Allamakee Street</td>
</tr>
<tr>
<td>Wastewater Treatment</td>
<td>740 Rossville Road</td>
</tr>
<tr>
<td>Maintenance Garage</td>
<td>848 Allamakee Street</td>
</tr>
</tbody>
</table>

Allamakee Community School District Buildings

<table>
<thead>
<tr>
<th>Building</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>High School</td>
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<tr>
<td>East Elementary</td>
<td>107 6th Street NW</td>
</tr>
<tr>
<td>West Elementary</td>
<td>953 3rd Avenue NW</td>
</tr>
<tr>
<td>Junior High</td>
<td>110 5th Street NW</td>
</tr>
<tr>
<td>Allamakee County Learning Center</td>
<td>12 East Main Street</td>
</tr>
<tr>
<td>Bus Garage</td>
<td>315 5th Street NW</td>
</tr>
</tbody>
</table>

The following buildings will be connected at Mediacom’s actual cost as listed below:

West Elementary (fiber and cable) - 953 3rd Avenue NW - $1,937.50
CHAPTER 114

ELECTRIC FRANCHISE

114.01 FRANCHISE GRANTED. There is hereby granted unto Allamakee-Clayton Electric Cooperative, Inc., an incorporated cooperative association, organized under the laws of the State of Iowa, its successors and assigns, (hereinafter referred to as the "Grantee") the right, permission, privilege and franchise, for a period of twenty-five (25) years from and after the taking effect of the ordinance codified in this chapter, subject only to the laws of the State of Iowa as now in force or as may hereafter be in force, and to the conditions and limitations hereinafter contained, to erect, install, construct, reconstruct, repair, own, operate, maintain, manage and control an electric light, heat and power plant and an electric distribution system consisting of poles, wires, conduits, pipes, conductors, anchors, guy wires, and all appurtenances thereto, within the limits of the City and within its assigned service territory, necessary, convenient or proper for the production, transmission, distribution and delivery of electricity for light, heat and power purposes to the City and its inhabitants.

114.02 RIGHT-OF-WAY GRANTED. The Grantee, its successors and assigns, is hereby granted the right-of-way in, under, over, along and across the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City and within its assigned service territory, for the purpose of erecting, installing, constructing, reconstructing, repairing, owning, operating and maintaining, managing and controlling said electric distribution system.

114.03 INDEMNITY The Grantee shall hold the City free and harmless of and from any and all liability, damages, actions and causes of action, caused by or through the neglect or mismanagement of the Grantee in the erection, installation, construction, reconstruction, repair, operation, maintenance, management or control of said electric plant and distribution system.

114.04 RESTORATION OF PROPERTY. The Grantee shall not, during the erection, installation, construction, reconstruction, repairing, operation and maintenance of said plant or distribution system, unnecessarily hinder public travel on the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City, and shall leave all of said streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City, upon which it may enter for the
purposes herein authorized, in as good condition as they were at the date of entry.

114.05 MOVING OF BUILDINGS. Any person desiring to move any building or other thing in, over, along or across any of the streets, lanes, avenues, sidewalks, alleys, bridges or public grounds of the City, whereby the poles, wires, conduits, or other fixtures of the Grantee, or their use, shall or may be interfered with, shall make written application therefor to the City, specifying in such application the building or thing to be moved, the proposed route to be followed and the date for such moving which shall not be less than seven (7) days from the presentation of said application. If said application shall be granted, the City shall give the Grantee notice thereof at least five (5) days prior to the date of said moving and said Grantee shall thereupon, but at the expense of said applicant, temporarily remove such poles, wires, conduits, pipes, conductors, or other fixtures as may be necessary to allow the passage of said building or other thing for a reasonable length of time not exceeding four (4) hours in any one day and between the hours of 8 o'clock A.M. and 3 o'clock P.M.; provided, however, that said Grantee shall not be required to remove any such poles, wires, conduits, pipes, conductors or other fixtures until said applicant shall have given satisfactory assurance to said Grantee, covering the entire cost of the removal and replacement of such poles, wires, conduits, pipes, conductors and other fixtures and any and all damage, liability, action or cause of action resulting therefrom.

114.06 DEFINITION. For purposes of this chapter and franchise, the term “electric light, heat and power plant” shall not be defined to include a generation facility; but it shall not exclude a distributed generation facility.

(Ord. 558 – Dec. 02 Supp.)

EDITOR’S NOTE

Ordinance No. 558 adopting an electric franchise for the City was passed and adopted on October 7, 2002.
CHAPTER 115

NATURAL GAS FRANCHISE FEE

115.01 FRANCHISE FEE. The City of Waukon, Iowa, (hereinafter referred to as the “Municipality”) hereby establishes a franchise fee on every natural gas company, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas (hereinafter referred to, collectively, as “Natural Gas Providers,” each, individually, an “Natural Gas Provider”). Natural Gas Providers shall collect from their customers located within the corporate limits of the Municipality as depicted on the Map (as defined below), excluding the Municipality and its municipal hospital, and pay to the Municipality an amount equal to three percent (3.0%) of gross receipts Natural Gas Providers derive from the sale, distribution or transportation of natural gas delivered within the present limits of the Municipality. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

115.02 EXEMPTION FROM OTHER FEES. The amount paid by Natural Gas Providers shall be in lieu of, and Natural Gas Providers shall be exempt from, all other fees, charges, taxes or assessments which the Municipality may impose for the privilege of doing business within the Municipality, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the Municipality imposes any such fee, charge, tax or assessment, the payment to be made by Natural Gas Providers in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Natural Gas Providers. Ad valorem property taxes imposed generally upon all real and personal property within the Municipality shall not be deemed to affect Natural Gas Providers’ obligations under this Ordinance.

115.03 PAYMENT OF FEES. Natural Gas Providers shall report and pay any amount payable under this Ordinance on a monthly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the Municipality to a Natural Gas Provider.

115.04 NOTICE OF FEES. Natural Gas Providers shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their
customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, Natural Gas Providers will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of the Municipality, Natural Gas Providers may reduce the franchise fee payable for natural gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

115.05 DETERMINATION OF CUSTOMERS. Within ten (10) days of the date of this ordinance, the Municipality shall provide the Natural Gas Providers with a map of its corporate limits (the “Map”). The Map shall be of sufficient detail to assist Natural Gas Providers in determining whether their customers reside within the Municipality’s corporate limits. The Map along with Natural Gas Provider’s Geographic Information System ("GIS") mapping information shall serve as the sole basis for determining Natural Gas Provider’s obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the Municipality’s corporate limits are changed by annexation or otherwise, it shall be the Municipality’s sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Natural Gas Providers. A Natural Gas Provider’s obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Natural Gas Provider’s receipt from the Municipality of an updated Map including such annexed area, or (b) such time after such Natural Gas Provider’s receipt from the Municipality of an updated Map including such annexed area as is reasonably necessary for such Natural Gas Provider to identify the customers in the annexed area obligated to pay the franchise fee.

115.06 ANNEXATION ORDINANCES. The Municipality shall provide copies of annexation ordinances to Natural Gas Providers on a timely basis to ensure appropriate Franchise fee collection from customers within the corporate limits of the city as set forth in Section 4 above.

115.07 BOOKS AND RECORDS. The Municipality shall have access to and the right to examine, during normal business hours, Natural Gas Provider’s books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the Municipality shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by a Natural Gas Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by a Natural Gas Provider shall be deducted from the next payment of such franchise fee due by such Natural Gas Provider to the Municipality; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

(Ch. 115 - Ord. 741 – Feb. 16 Supp.)
CHAPTER 116

REBATE OF EXCESS ELECTRIC FRANCHISE FEES

116.01 REBATE OF EXCESS ELECTRIC FRANCHISE FEES. The City shall rebate to any electric utility customer that portion of the franchise fees paid by such customer for any calendar month in excess of $500. For purposes of applying this maximum and determining the amount to be rebated, a "customer" shall include any corporation, limited liability company, partnership, joint venture or other business formation owned or controlled in whole or in part by said customer and the Clerk shall aggregate the franchise fees reflected in all monthly electric utility bills received by such customer. In order to qualify for said rebate, the customer shall submit to the City Clerk, within 30 days of receipt, copies of all monthly electric utility bills reflecting franchise fee charges. Within 30 days of receipt by the City from the electric utility franchise holder of quarterly franchise fee transfers, the Clerk shall rebate to each customer the amount of franchise fees paid by the customer in excess of $500 in any of the three preceding months.

(Ch. 116 - Ord. 751 – Nov. 17 Supp.)
CHAPTER 116          REBATE OF EXCESS ELECTRIC FRANCHISE FEES

[The next page is 651]
§ 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 beverage.  *(Ord. 781 – Dec. 18 Supp.)  
   *(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 to any person on credit, except with 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.  
   *(Ord. 781 – Dec. 18 Supp.*)  
   *(Code of Iowa, Sec. 123.49 [2c]*)

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.  
   *(Code of Iowa, Sec. 123.49 [2f]*)  
   *(Ord. 781 – Dec. 18 Supp.*)

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.  
   *(Code of Iowa, Sec. 123.49 [2i]*)  
   *(Ord. 781 – Dec. 18 Supp.*)
6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

   (Code of Iowa, Sec. 123.49 [2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

   (Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

   (Ord. 710 – Oct. 12 Supp.)

   (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. (Repealed by Ord. 498 - Dec. 99 Supp)

12. 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[2l])

   (Ord. 621 – Dec. 06 Supp.)

120.06 MINORS IN LIQUOR ESTABLISHMENTS. Except as otherwise provided in this section, a minor shall not enter or remain on, nor shall any licensee holding a license for the sale of alcoholic liquor or any employee of such licensee permit a minor to enter or remain on, a premises licensed for the
sale of alcoholic liquor. For purposes of this section, “minor” means a person under the age of twenty-one (21) years. This prohibition does not apply to minors accompanied by a parent or legal guardian or to minors eighteen (18), nineteen (19) or twenty (20) years of age who are employed by the licensee, nor does it apply in the following locations and circumstances:

1. Licensed liquor establishments having at least 1,000 square feet of unobstructed dance floor, for the purpose of attending wedding dances, anniversary dances or benefit functions, provided that such establishments are supervised during the time unaccompanied minors are present by one or more private security agents employed by the liquor license holder. The only duties assigned to such private security agents at such times shall be to preserve order and to notify law enforcement authorities of any violations of law. Such agents shall not be police officers or under the direction and supervision of any municipal police officers, but the Police Chief may furnish such private security agents with communication devices to facilitate prompt contact with law enforcement authorities. This subsection does not relieve any private security agent from the duty to comply with State law governing the licensing of private security agencies, if applicable.

2. Bowling alleys.

3. Clubhouse of golf courses.

4. Restaurants, for the purpose of eating, provided that unaccompanied minors may be permitted to enter and remain only in such separate rooms or other clearly defined areas within a restaurant licensed as a liquor establishment which are reserved primarily for dining purposes.

5. Any licensed liquor establishment for purposes of attending a function at which no alcoholic liquor is served.

120.07 OPTIONAL SUSPENSION OR REVOCATION. Subject to Section 120.08 and Iowa Code Section 123.50, following a written notice and hearing, a liquor license or beer or wine permit may be suspended by the Council for a period up to one year or revoked, or a civil penalty may be imposed, for any of the following causes:

(Code of Iowa, Sec. 123.39)

1. Misrepresentation. Misrepresentation of any material fact in the application for such license or permit.

(Code of Iowa, Sec. 123.39[1])
2. Violations. Violations of any of the provisions of the Iowa Alcoholic Beverage Control Act or of this chapter. Criminal conviction on the violation shall not be required. However, a permit or license may not be revoked based solely upon a violation of this chapter and, in the case of a first offense violation of paragraph 123.49(2)(h) of the Iowa Code, a civil penalty of $500.00 shall be imposed in lieu of any suspension or revocation.

(Code of Iowa, Sec. 123.39[2])

3. Change in Ownership. Any change in the ownership or interest in the business operated under a class “A”, class “B” or class “C” liquor control license, or any beer or wine permit, which change was not previously reported to and approved by the City and the Alcoholic Beverages Division of the Iowa Department of Commerce.

(Code of Iowa, Sec. 123.39[3])

4. Original Disqualifications. Any event which would have resulted in disqualification from receiving such license or permit when originally issued.

(Code of Iowa, Sec. 123.39[4])

5. Sale or Transfer. Any sale, hypothecation or transfer of such license or permit.

(Code of Iowa, Sec. 123.39[5])

6. Payment of Taxes. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the Alcoholic Beverages Division under State law.

(Code of Iowa, Sec. 123.39[6])

7. Conviction of Prohibited Sale or Act. The criminal conviction of any liquor licensee or wine or beer permittee for a violation of any of the provisions of Iowa Code Section 123.49. (See Section 120.08 regarding mandatory civil penalties following convictions.)

(Code of Iowa, Sec. 123.50[2])

(Ord. 480 - Oct. 98 Supp)

120.08 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the Council, or a civil penalty shall be imposed, in accordance with the following:

1. Sale to Persons Under Legal Age or “Spiking.” If any licensee, beer or wine permittee or employee of such licensee or permittee is convicted of a violation of Iowa Code paragraph 123.49(2)(h), or a retail beer or wine permittee is convicted of a violation of Iowa Code
CHAPTER 120  LIQUOR LICENSES AND WINE AND BEER PERMITS

paragraph 123.49(2)(i), the Council shall, in addition to criminal penalties fixed for such violations, assess a civil penalty as follows:

A. Upon a first conviction of a violation of Iowa Code paragraph 123.49(2)(i), the violator’s liquor control license or wine or beer permit shall be suspended for a period of fourteen (14) days. For a first-time offender of Iowa Code paragraph 123.49(2)(h), a civil penalty of $500.00 shall be assessed in lieu of any suspension, but a fourteen-day suspension shall be imposed if the penalty is not paid as ordered.

(Code of Iowa, Sec. 123.50 [3a])

B. Upon a second conviction within a period of two (2) years, the violator’s liquor control license or wine or beer permit shall be suspended for a period of thirty (30) days. However, if the conviction is for a violation of Iowa Code paragraph 123.49(2)(h), the violator shall also be assessed a civil penalty in the amount of $1500.00.

(Code of Iowa, Sec. 123.50 [3b])

C. Upon a third conviction within a period of three (3) years, the violator’s liquor control license or wine or beer permit shall be suspended for a period of sixty (60) days. However, if the conviction is for a violation of Iowa Code paragraph 123.49(2)(h), the violator shall also be assessed a civil penalty in the amount of $1500.00.

(Code of Iowa, Sec. 123.50 [3c])

D. Upon a fourth conviction within a period of three (3) years, the violator’s liquor control license or wine or beer permit shall be revoked.

(Code of Iowa, Sec. 123.50 [3d])

(Ord. 480 - Oct. 98 Supp)

2. Gambling, Solicitation, Repackaging, Adulteration. If any liquor control licensee or wine or beer permittee is convicted of a violation of Iowa Code paragraphs 123.49(2)(a), (d) or (e), the license or permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the licensee or permit holder shall be forfeited to the Administrator of the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.50 [2])

120.09 NOTICE AND APPEAL. When the Council revokes or suspends a liquor license or beer or wine permit, or imposes a civil penalty, the Alcoholic Beverages Division of the Iowa Department of Commerce shall be given
written notice thereof. The licensee or permit holder shall also be given written notice of the right to appeal the Council’s action to the Alcoholic Beverages Division.

120.10 HEARING ON SUSPENSION, REVOCATION OR PENALTY. The Council shall conduct a hearing on each suspension, revocation or civil penalty in the following manner:

1. Notice. The licensee or permit holder, and the surety on such person’s bond, shall be served with written notice containing a copy of the complaint against said person, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

2. Hearing. The Council shall conduct a hearing, at which both the licensee or permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the licensee or permit holder or any authorized representative fail to appear without good cause, the Council may proceed to a determination of the complaint.

3. Rights of Licensee or Permit Holder. The licensee or permit holder shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.

4. Evidence. The Council shall admit only reliable and substantial evidence into the proceeding, and shall give all admitted evidence its natural probative value.

5. Criminal Charges. In the event that criminal charges have been brought against the licensee or permit holder on the same facts and circumstances as are the basis for the revocation, suspension or civil penalty complaint, the Council shall await a judgment in the criminal action before conducting the hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the proceeding held under this section.

6. Record and Determination. The Council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit or impose a civil penalty only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or State law.
CHAPTER 121

CIGARETTE PERMITS

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

(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.

(Ord. 765 - Nov. 17 Supp.)

4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.

5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other
chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

(Ord. 732 - Nov. 14 Supp.)

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

(Ord. 732 - Nov. 14 Supp.)

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance 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)

121.04 FEES. The fee for a retail cigarette permit shall be as follows:

(Code of Iowa, Sec. 453A.13)

<table>
<thead>
<tr>
<th>FOR PERMITS GRANTED DURING:</th>
<th>FEE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>July, August or September</td>
<td>$75.00</td>
</tr>
<tr>
<td>October, November or December</td>
<td>$56.25</td>
</tr>
<tr>
<td>January, February or March</td>
<td>$37.50</td>
</tr>
<tr>
<td>April, May or June</td>
<td>$18.75</td>
</tr>
</tbody>
</table>

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

(Ord. 765 – Dec. 18 Supp.)

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 of the Code of Iowa.

(Code of Iowa, 453A.13)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of $300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 or the retailer’s permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer’s permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer’s permit shall be suspended for a period of 60 days.

5. For a fifth violation within a period of four years, the retailer’s permit shall be revoked.

The Clerk shall give 10 days’ written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Section 121.07 – Ord. 809 – Nov. 20 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

(Ord. 732 - Nov. 14 Supp.)

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.

(Ord. 524 - Nov. 00 Supp.)

(Code of Iowa, Sec. 453A.22)
CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable
122.10 Time Restriction
122.11 Revocation of License
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122.13 Hearing
122.14 Record and Determination
122.15 Appeal
122.16 Effect of Revocation
122.17 Rebates
122.18 License Exemptions
122.19 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle 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 REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.
122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of five dollars ($5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars ($10.00) per year.

2. Peddlers or Transient Merchants.
   A. For one day ..................................$ 5.00
   B. For one week .................................$ 10.00
   C. For up to six (6) months ...............$ 15.00
   D. For one year or major part thereof ..$ 25.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant’s license in the merchant’s place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.
122.10 TIME RESTRICTION. All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of eight o’clock (8:00) a.m. and seven o’clock (7:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee’s local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 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.
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. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars ($5.00) of the original fee shall be retained by the City to cover administrative costs.

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.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the Allamakee Community School District or St. Patrick’s parochial school conducting projects sponsored by organizations recognized by the schools.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.19 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, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount
thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.
CHAPTER 122
PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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CHAPTER 123

HOUSE MOVERS

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.
123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - $50,000 per person; $100,000 per accident.
2. Property Damage - $50,000 per accident.

123.06 PERMIT ISSUED. Upon approval of the application and filing of bond and insurance certificate, the Clerk shall issue a permit.

123.07 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.08 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.08 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder’s bond.

123.10 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.11 ABOVE GROUND WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.
CHAPTER 124

FARMERS’ MARKET

124.01 FARMERS’ MARKET PERMITTED. A farmers’ market may be established and operated on public property on a non-profit basis under the sponsorship of a person or organization subject to the limitations set forth in this chapter.

124.02 SPONSOR; LICENSE. Upon written application by any person or organization, and upon approval by the Council, the Clerk shall issue, without charge, a single license for the operation on public property of a farmers’ market. The application shall indicate the name and address of the applicant, the dates and hours of the operation of the farmers’ market, and the name and address of the person who shall serve as market master. A copy of all rules and restrictions applicable to the farmers’ market and to the vendors participating therein, as developed by the applicant-sponsor, shall be attached to the application. Any license issued to such sponsor shall be valid only for a single calendar year.

124.03 CONTROL OF FARMERS’ MARKET. The farmers’ market shall be under the control of the licensed sponsor, acting through the market master appointed by the sponsor, subject to the provisions of this chapter and other applicable City and State laws, and the City shall assume no other control or responsibility over its operation.

124.04 LOCATION AND HOURS AND DATES OF OPERATION. The farmers’ market shall occupy only the marked parking stalls in the municipal parking lot located between Rossville Road and West Street SW, south of First Avenue SW. The maximum hours and dates of operation of the farmers’ market shall be from eight o’clock (8:00) a.m. to twelve o’clock (12:00) noon on each Saturday from May 1 to November 1.

124.05 MARKET MASTER. The sponsor of the farmers’ market shall designate a person to serve as market master on its behalf. The market master shall exercise direct supervision over the operation of the farmers’ market, issue
permits to vendors, assign and direct the placing of vehicles and stands, enforce all rules and regulations established by or on behalf of the sponsor for the conduct of the farmers’ market, and perform such other duties as may be prescribed by the sponsor.

124.06 PERMIT. No person shall occupy any space or stall for the purpose of selling goods in the area designated for and during the operation of the farmers’ market unless such person has paid the permit fee established by the sponsor and been issued a written vendor permit by the market master. Vendor permits may be issued, and the fees for the same established, on a seasonal and/or daily basis. Vendor permit fee amounts shall be established on the basis of the actual or estimated costs incurred by the sponsor in operating and promoting the farmers’ market. No vendor permit holder may sublet and assign space in the farmers’ market to any other person and any temporarily unoccupied vendor space may be temporarily assigned to any other permit holder by the market master. Each vendor permit shall be publicly displayed.

124.07 PRODUCE SOLD. There shall be sold in the farmers’ market only the following food items which are actually produced or manufactured by the permit holder in his or her own garden, farm, home or plant:

1. Any raw, unprocessed fruits and vegetables;
2. Honey (if labeled in accordance with the Rules of the Iowa Department of Inspections and Appeals);
3. Whole fresh eggs (if kept at 60 degrees F. or less);
4. Non-hazardous baked goods (generally those of low water content such as cookies, breads and cakes as permitted by the Rules of the Iowa Department of Inspections and Appeals);
5. Any other food product which may be exempted from the Iowa Food Establishment license requirement; and
6. Flowers and plants.

124.08 UNWHOLESALE PRODUCE; SANITATION. No damaged or unwholesome produce shall be brought into or offered for sale at the farmers’ market. The market place shall be kept clean and free from filth and dirt, and no person shall deposit or leave or cause to be deposited or left upon the market place or the surrounding area any refuse or debris of any kind.

124.09 AUTHORITY TO MAKE RULES. The sponsor or, by delegation, the market master designated by the sponsor shall have authority to establish rules and regulations, not inconsistent with this chapter, for the conduct and
administration of the farmers’ market, including the power to revoke the permit of any vendor permit holder for violation of such rules. Copies of all such rules established or amended after the sponsor’s license application is made shall be promptly filed with the Clerk by the sponsor.

124.10 EXEMPTION FROM OTHER LICENSING REQUIREMENTS.
The holder of the farmers’ market sponsor’s license and the holder of a farmers’ market vendor permit are exempt from the peddlers and solicitors license requirement under Chapter 122 while engaged in farmers’ market activities permitted under this chapter.
CHAPTER 125

HOTEL/MOTEL TAX

125.01 TAX IMPOSED. There is imposed a seven percent (7%) hotel and motel tax upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the sales price from the renting of sleeping rooms in dormitories and memorial unions at all universities and colleges located in the State.  

(Ord. 771 – Dec. 18 Supp.)  

(Code of Iowa, Sec. 423A.1)

125.02 DEFINITIONS. “Renting” and “rent,” as used in this chapter, include any kind of direct or indirect charge for the use of sleeping rooms, apartments or sleeping quarters. However, the tax imposed in this chapter does not apply to the sales price from the renting of a sleeping room, apartment, or sleeping quarters while rented by the same person for the period beginning after ninety consecutive days of rental by such person.  

(Code of Iowa, Sec. 423A.5[1][a])  

(Ord. 810 – Nov. 20 Supp.)

125.03 EFFECTIVE DATE OF TAX. The hotel and motel tax as set forth in this chapter shall be imposed on all sales prices received after January 1, 2018.  

(Ord. 771 – Dec. 18 Supp.)

125.04 COLLECTION. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.  

(Code of Iowa, Sec. 423A.1)

125.05 RESTRICTIONS ON USE OF REVENUES. The revenue derived from the tax imposed by this chapter shall be accounted for as follows:

1. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City.
2. At least seventy-five percent (75%) of the revenue derived from the hotel and motel tax shall be used for park and recreation programs and facilities.

3. The remaining revenues may be spent by the City for any lawful purpose for which revenues derived from ad valorem taxes may be expended.

(Ch. 125 - Ord. 698 – Oct. 12 Supp.)

[The next page is 695]
CHAPTER 135

STREET USE AND MAINTENANCE

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. Except as provided in this section, 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 or grass, or any 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. This prohibition shall not apply to the following:

1. Solid waste or recyclable materials placed for collection in conformance with the requirements of Chapters 106 and 107 of this Code of Ordinances.

2. Leaves from adjacent properties placed on public streets within the times and dates designated by the City Council for the City’s annual fall leaf collection.

(Code of Iowa, Sec. 321.369)

(Section 135.03 – Ord. 774 – Dec. 18 Supp.)

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. It is unlawful for any person to burn any leaves on any portion of the traveled roadway of any street within the City limits. The traveled portion of any street includes any portion of the street which has been improved in any manner. For streets having curb and gutter, the traveled portion will be construed to mean that portion lying between the back of one curb across the street to the back of the other curb. It is unlawful for any person to rake, pile, carry or otherwise place leaves on any paved or surfaced street within the City limits.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking, alley or other City property 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 Water and Sewer Superintendent 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 by the permit holder/property owner.

4. Bond Required. Before any permit for the excavation of any street, alley or any other public property is issued, the applicant therefor shall file a cash bond in the amount of seven hundred fifty dollars ($750.00) with the City. Such bond shall be conditioned that said applicant shall pay all damages and injuries resulting from any work done under such permit. The amount of such bond, less any sum deducted for damages, shall be refunded to said applicant not later than six (6) months after any work done under said permit is completed.

   (Ord. 756 – Nov. 17 Supp.)

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, at the expense of the permit holder/property owner, in a manner consistent with the City’s Standard Specifications for Street Patch After Excavating contained in the Appendix of this Code of Ordinances.

   (Ord. 611 – Dec. 06 Supp.)

7. Inspection. All work shall be subject to inspection by the Water and Sewer Superintendent. 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 Superintendent. The permit holder/property owner shall provide the Superintendent with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
8. Excavations During Winter Months. No person shall make or cause to be made, and no permits shall be issued for, any excavation in any public street during the months of November, December, January and February, except for emergency maintenance and except for service connections to buildings being constructed under City building permits.

9. 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.

10. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

12. Exemptions. Permits under this section shall not be required for excavations by the City or by persons acting under contract with the City, nor for excavations in connection with sidewalk and driveway construction. Excavations by utility companies shall be governed by Chapter 141 of this Code of Ordinances rather than this section.

(Ord. 611 – Dec. 06 Supp.)

135.10 MAINTENANCE OF PARKING OR BOULEVARD. 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 BOULEVARD. 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.

1. No person shall push, plow, shovel, blow or otherwise deposit or cause to be deposited any snow or ice on any public sidewalk or on the traveled portion of any public street or alley, except as follows:

   A. Snow or ice removed from a public sidewalk may be deposited on a public street on street frontages where no private yard or public boulevard areas adjoin the sidewalk.

   B. Following consultation with the street superintendent and subject to his or her direction as to the timing and specific locations and subject to payment to the City of a fee in an amount established by resolution of the City Council, snow plowed or otherwise removed from private parking and vehicular access areas in the B-1 central business district may be deposited on the public streets and parking lots for removal by the City in the interest of public safety.

2. No person shall pile or deposit or cause to be piled or deposited snow or ice to a height of more than three (3) feet, or add additional snow or ice to an existing pile of snow or ice which is or thereby becomes in excess of three (3) feet in height, at the intersection of any streets within any portion of an area which is bounded by the lines of the traveled portions of the intersecting streets and a line connecting two (2) points on said street lines thirty (30) feet from their point of intersection. The height of a pile of snow or ice shall be measured from the level of the underlying ground surface. This subsection shall not be construed to prohibit street clearing activities by public employees.

(Ord. 669 – Nov. 10 Supp.)
CHAPTER 136

SIDEWALK REGULATIONS

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. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:

   A. The sidewalk is cracked with a vertical edge existing of more than 3/4-inch high. (See Repair Code A in Appendix to this Code of Ordinances for illustration.)

   B. The sidewalk has raised more than two inches in an eight- to ten-foot (8' - 10') area from the normal line of grade of the sidewalk. (See Repair Code B in Appendix to this Code of Ordinances for illustration.)

   C. The sidewalk is depressed more than two (2) inches in an eight- to ten-foot (8' - 10') area from the normal line of grade of the sidewalk. (See Repair Code C in Appendix to this Code of Ordinances for illustration.)

   D. The sidewalk has cracked into more than three pieces per each four- by four-foot (4' x 4') square and sections are distorted or distressed with a vertical height difference of one-half (½) inch or more or a horizontal separation of two (2) inches or more. (See Repair Code D in Appendix to this Code of Ordinances for illustration.)
E. The sidewalk has cracked and part of the sidewalk is missing, forming holes. (See Repair Code E in Appendix to this Code of Ordinances for illustration.)

F. The sidewalk has settled or for some other reason is sloped and tilted more than one inch per foot (toward either side). (See Repair Code F in Appendix to this Code of Ordinances for illustration.)

G. The sidewalk has spalled and the surface is gone. (See Repair Code G in Appendix to this Code of Ordinances for illustration.)

2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.

3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.

5. “Portland cement” means any type of cement except bituminous cement. Except where sidewalk concrete is provided by a ready-mix company, the following mix quantities per square foot shall apply: 7.5 lbs. cement, 16.5 lbs. sand, 20.5 lbs. gravel and 0.5 gallons water (the equivalent to a six-bag mix with 4,000 lbs. per square inch compression strength). Ready-mix concrete shall be of equivalent minimum strength.  

   (Ord. 779 – Dec. 18 Supp.)

6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.

7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and
assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street. The owner of any lot or parcel who fails to maintain the sidewalk in a safe condition, in a state of good repair, and free from defects shall be liable to any person injured as a result of such failure and shall, further, save, defend, indemnify and hold harmless the City of Waukon from and against any claim arising out of the failure to maintain said sidewalk.

(Ord. 785 – Dec. 18 Supp.)

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. Before any person shall remove, construct or reconstruct a sidewalk, said person shall obtain a written permit from the Street Superintendent. A written application for the permit shall be filed with the Street Superintendent. The application shall include the address and 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 proposed plan of construction or reconstruction, which shall include the depth, width and type of surfacing material to be used. No other plan shall be followed except by written permission of the Street Superintendent, who may allow amendments to the application or permit that do not conflict with this chapter. The Street Superintendent shall issue the permit, bearing the Street Superintendent’s signature and the date of issuance, without charge if the proposed plan meets all
of the requirements of this chapter. Each permit shall expire sixty (60) days after the date of issuance, but the Superintendent may grant an extension of time for good cause.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. The underlying soil shall be well compacted and moistened before new concrete is poured. In areas where the soil is not well drained, the City may require a three (3) inch sub-base of compact, clean, coarse gravel, sand or cinders.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:
   A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
   B. Business District sidewalks shall extend from the property line to the curb. Each section shall be not less than four (4) inches thick and no more than thirty-six (36) square feet in area.
   (Ord. 779 – Dec. 18 Supp.)
   C. Driveway areas shall be not less than six (6) inches in thickness.
   D. If a new or replacement sidewalk has a different width than an existing sidewalk to which it is to be connected, the last section of the new or replacement sidewalk shall be tapered to match the adjoining sidewalk’s width at the point of connection.

6. Saw Cuts. Sidewalk sections required by the preceding subsection shall be established by saw cuts which shall be one-third (1/3) of the depth and shall be cut by machine or masonry hand tool.
   (Ord. 779 – Dec. 18 Supp.)

7. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line,
unless the Council establishes a different distance due to special circumstances.

8. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade, unless the Council establishes a different grade due to special circumstances.  

(Ord. 779 – Dec. 18 Supp.)

9. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk, where applicable.

10. Slope. All sidewalks shall slope one and one-half percent (1.5%) toward the curb or street except where impracticable to do so because new sidewalk section meets existing sidewalk which has a different slope.

(Ord. 779 – Dec. 18 Supp.)

11. Finish. All sidewalks shall be finished with a “wood float” finish.

12. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board. Actual ADA panels used shall be from a current list approved by the Street Superintendent.

(Code of Iowa, Sec. 216C.9)

(Ord. 779 – Dec. 18 Supp.)

13. Weather for Pouring. Sidewalk cement shall not be poured when the air temperature is less than forty-five degrees (45°) F. at the time of pouring or if a temperature of lower than 45° F. is forecast for the next 24 hours. If the temperature is above seventy-five degrees (75°) F., the cement shall be left wet or a liquid curing compound shall be applied uniformly over 100% of the sidewalk surface after pouring.

14. Protection After Pouring. Sidewalk cement shall be protected from traffic for a minimum of forty-eight (48) hours after pouring, and during such time adequate safety barriers shall be placed and maintained on all sides of the sidewalks.
136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner’s contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 OBSTRUCTING TRAVEL. No person shall willfully obstruct travel on any sidewalk by placing any property or substance thereon.

136.13 DISPLAYING MERCHANDISE ON SIDEWALKS. No person shall use any portion of the sidewalk for the display of goods, wares or merchandise of any kind unless a permit is first obtained therefor from the Council.
CHAPTER 137

DRIVEWAY REGULATIONS

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

1. “Driveway” means that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.

2. “Paving” includes any kind of hard surfacing, including but not limited to, portland cement concrete, bituminous concrete, brick, stabilized gravel or combinations of such materials, with the necessary base. “Paving” does not include surfacing with oil, gravel, oil and gravel or chloride.

137.02 PERMIT. Before any person shall construct or repair a driveway, said person shall obtain a written permit from the Street Superintendent. A written application for the permit shall be filed with the Street Superintendent. The application shall include the address and 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 proposed plan of construction or repair, which shall include the depth, width and type of surfacing material to be used. No other plan shall be followed except by written permission of the Street Superintendent, who may allow amendments to the application or permit that do not conflict with this chapter. The Street Superintendent shall issue the permit, bearing the Street Superintendent’s signature and the date of issuance, without charge, if the proposed plan meets all of the requirements of this chapter, and if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect. Each permit shall expire sixty (60) days after the date of issuance, but the Superintendent may grant an extension of time for good cause.

137.03 DRIVEWAY REQUIREMENTS. All driveways shall meet the following requirements:
1. All driveways shall be of paving of a depth of not less than six (6) inches and shall be at least twelve (12) feet in width.

2. The driveway may be placed directly on compact and well-drained soil. Where soil is not well drained, a six-inch (6") sub base of compact, clean, coarse gravel, sand or cinders shall be laid.

3. The driveway shall slope not more than two (2) inches per foot toward the roadway.

4. The maximum driveway width at the curb line shall be twenty (20) feet except for commercial driveways when consent of the Street Superintendent is received.

137.04 SAW CUTS AND EXCAVATIONS. The portion of the street’s curb to be removed for installation of a driveway shall be cut away by a saw cut not more than three (3) inches from the toe of the curb. The saw cut shall be clean and even and shall be done in a good and workmanlike manner. Excavations to do work under this chapter shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavations, the earth must be laid in layers approximately six (6) inches thick and each layer tamped thoroughly. Any sidewalk, street or other public property that is affected by the work shall be restored to as good a condition as it was previous to the excavation. The affected area shall be maintained in good repair to the satisfaction of the Council for one (1) year after refilling.

137.05 SIDEWALKS. The elevation and slope of any existing public sidewalk shall not be altered by driveway construction or repair work except as provided in this section. Where, by reason of topographical conditions, driveway construction or repair without sidewalk alteration is impracticable, the Superintendent may approve an application providing for such alterations and may require reconstruction of sections of sidewalk adjoining a driveway as a condition of permit issuance, provided, however, that no such alteration shall result in a sidewalk slope which is greater than one inch of rise per twelve inches lineal distance.

(Ord. 472 - Oct. 98 Supp)

137.06 REVOCATION OF PERMIT. The Street Superintendent may at any time revoke a permit for any violation of this chapter and may require that the work be stopped.
137.07 INSPECTION AND APPROVAL. The driveway must be inspected and approved in writing by the Street Superintendent within thirty (30) days after completion of the work. The Street Superintendent shall keep a record of such approvals in the Street Superintendent’s office. If the work is not approved, it must be corrected immediately so that it will meet with the Street Superintendent’s approval. If the work has been done improperly, the Street Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.
CHAPTER 138

VACATION AND DISPOSAL OF STREETS

138.01 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])

138.02 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

138.03 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

138.04 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

138.05 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])
EDITOR’S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

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CHAPTER 139

STREET GRADES

139.01 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.

139.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR’S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

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CHAPTER 141
USE OF PUBLIC RIGHTS-OF-WAY

141.01 PURPOSE. The purpose of this chapter is to establish uniform rules and controls for the use of public rights-of-way by utility companies in order to ensure public safety, protect public and private investment and ensure the orderly and efficient use of public property.

141.02 APPLICABILITY. This Chapter shall apply to all utility companies and their agents using or proposing to use the streets and other public ways of the City and shall be in addition to, and not in lieu of, any other provisions of this Code of Ordinances. To the extent of any conflict between the terms and conditions of this Chapter and those of any other ordinance the terms of this Chapter shall control. However, in the event of a conflict between this Chapter and a franchise ordinance, the terms and condition of the franchise ordinance shall be controlling, unless otherwise contrary to state or federal law. Section 135.09 of this code shall govern excavations within a street or any other public right-of-way which are not made by utility companies or their agents.

(Ord. 744 – Dec. 16 Supp.)

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

1. “Facility” or “facilities” means any tangible asset in a public right-of-way used to provide utility service.

2. “Public right-of-way” means the surface and space above, on and below any public highway, avenue, street, lane, alley, boulevard, driveway, bridge, parkway, waterway or public easement within the City in which the City now or hereafter holds any property interest which, consistent with the purposes for which it was dedicated or otherwise acquired, may be used for the purpose of constructing, operating and maintaining a facility.
3. “Utility company” means any person or entity, including franchise holders, using or proposing to use any public right-of-way to make utility services available to the public, including but not limited to electricity, natural gas and communication services. “Utility company” shall not include the City nor any entity providing solid waste collection services.

4. “Work permit” means a written authorization issued by the City to enter upon a public right-of-way at specified times and places to erect, construct, install or replace facilities.

**141.04 FRANCHISE OR LEASE REQUIRED.** No utility company shall use any public right-of-way without first obtaining a franchise or lease from the City. The City shall not enter into or issue any franchise or lease granting exclusive rights. A franchise confers the right to use City rights-of-way generally for the placement of facilities and are issued pursuant to Iowa Code Section 362.4. A lease, which is not required of franchise holders, confers the right to place facilities at specific locations. An application for a lease shall be filed with the City Clerk on a form provided by the City and shall include, as a minimum, the following information:

1. Name, address and telephone number of the utility company.
2. Name, address and telephone number of a person whom the City may notify or contact at any time concerning the lease.
3. An engineering site plan showing the proposed location of the facilities, including any manholes, and the size, type and proposed depth of any conduit or other enclosures.

**141.05 REGISTRATION REQUIRED.** Each utility company placing or maintaining or proposing to place or maintain any facility in a public right-of-way shall file a registration with the City which shall include the following information:

1. Name of utility company.
2. Name, address and telephone number of utility company's primary contact person in connection with its facilities.
3. Name, address and telephone number of the utility company's agent to contact in case of an emergency.
4. Evidence of insurance coverage required under this chapter.
5. Acknowledgement that the utility company has received and reviewed a copy of this chapter.
6. A copy of the registrant’s certificate of authorization or license to provide service issued by the Iowa Utilities Board, the Federal Communications Commission, or other federal or state authority, if any.

(Ord. 744 – Dec. 16 Supp.)

The registration shall be filed with the City Clerk by April 1 of each even-numbered year. Within thirty (30) days of any change in the information that must be submitted as provided above the utility company shall provide updated information to the City. A work permit shall not be issued to any utility company that does not have a current registration on file.

141.06 LOCATION AND MARKING. Upon the request of any officer or agent of the City, every utility company maintaining underground facilities within the City shall, in the manner and within the time provided by Iowa Code Section 480.4 (the One-Call System), mark the location of its underground facilities in any designated part of the public right-of-way.

141.07 WORK PERMITS.

1. Except for the repair of existing above ground facilities, and except for emergencies as provided hereafter in this section, no person shall install, erect, hang, lay, bury, draw, emplace, construct or reconstruct any facility upon, across, beneath, or over any public right-of-way in the City without first obtaining a work permit therefore.

2. Applications for work permits shall be filed with the City Clerk on a form provided by the City at least fourteen days before the proposed commencement of the work. The application shall state the name and address of the applicant, the name of the utility company (if different from the applicant), the name and telephone number of the contact person with respect to the particular work proposed, and a description of the work to be done, including particular location within the public right-of-way and the estimated length of time necessary to complete the work.

3. After referring the application to the Water and Sewer Superintendent and/or the Street Superintendent, the City Clerk shall issue the permit if the proposed work is within the scope of the franchise or lease of the utility company and a current registration is on file.

4. In cases of emergency involving public safety, a work permit need not be secured before the work commences, but the Water and Sewer Superintendent or the Street Superintendent or their designees shall be notified as soon as reasonably possible.

5. No fees shall be charged in connection with the issuance of work permits.
CHAPTER 141  USE OF PUBLIC RIGHTS-OF-WAY

141.08 CONSTRUCTION STANDARDS.

1. Construction, operation, maintenance, and repair of facilities shall be in accordance with all applicable law and regulation, and with sound industry practice. All safety practices required by law shall be used during construction, maintenance, and repair of facilities.

2. No utility company or holder of any work permit for any facility shall dig, trench, or otherwise excavate in the public rights-of-way without complying with the provisions of the Iowa One-Call System, Iowa Code 480.3 et. Seq., or its successor.

3. A utility company shall at all times employ at least ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public.

4. In the event of a conflict among applicable codes and standards, the most stringent code or standard shall apply (except insofar as those standards, if followed, would result in a system that could not meet requirements of Federal, State or local law, or is expressly preempted by other such standards).

5. A utility company shall have the authority to trim trees that overhang public rights-of-way of the City so as to prevent the branches of such trees from coming in contact with the facilities of the utility company. Notwithstanding that grant of authority, if the utility company performs the work, it shall be fully liable for any damages caused thereby, and shall be responsible for replacing damaged trees and shrubs. The utility company shall be responsible for notifying abutting property owners prior to trimming trees and shall obtain permission from the Street Superintendent of the City.

6. The City may adopt additional standards as required to ensure that work continues to be performed in a safe, orderly and workmanlike manner.

7. Any contractor or subcontractor used for work or construction, installation, operation, maintenance or repair of facilities in the public rights-of-way must be properly licensed under laws of the State and all applicable local ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as the utility company would have if the work was performed by the utility company. A utility company shall be responsible for all activities carried out by its contractors, subcontractors and employees at the utility company's request.
8. The utility company shall notify the public prior to commencing any construction that will significantly disturb or disrupt public property or have the potential to present a danger or affect the safety of the public generally. A notice shall be provided to those persons most likely to be affected by the work in at least one of the following ways: by telephone, in person, by mail, by distribution of flyers to residences, by publication in local newspapers, or in any other manner reasonably calculated to provide adequate notice.

141.09 PLACEMENT OF FACILITIES.

1. All facilities shall be installed and located to minimize interference with the rights and convenience of the public and of other property owners.

2. A utility company shall not place facilities where they will interfere with any other utility or facilities, or obstruct or hinder in any manner the various utility companies serving the residents of the City or their use of any public rights-of-way.

3. The City may reasonably direct the specific placement of facilities to ensure that users of the public rights-of-way do not interfere with each other and that the public rights-of-way are used safely and efficiently.

4. Any above ground facility that has not been used or operated by the utility company for a period of two years shall be promptly removed by the utility company upon the written request of the City. Should the utility company neglect, refuse or fail to remove such facility, the City may remove the facility at the expense of the utility company.

5. No utility company shall erect new aerial plant in or on a public right-of-way in which one or more utility companies has placed its lines underground.

6. The City may require that wires, cables or other like facilities of public utilities be installed underground in new subdivisions.

7. In the event any provision of this Chapter is subject to or in conflict with any present or future Iowa law, Iowa Utilities Board rules, regulations or utility company tariffs, such provision shall be deemed void.

(Ord. 744 – Dec. 16 Supp.)

141.10 RELOCATION OF FACILITIES.

1. A utility company shall, at its own expense, upon written notice from the City reasonably in advance, promptly relocate any facility
located on or within the public rights-of-way for any public project the City may deem necessary or appropriate to facilitate the realignment, reconstruction, improvement or repair of public streets, sidewalks, curbs, drains, sewers, and other public improvements, provided, however, a utility company may be permitted to abandon any facilities in place with the written consent of the City.

(Ord. 744 – Dec. 16 Supp.)

2. A utility company shall not be obligated to relocate its facilities located in a public right-of-way, at its own expense, unless the City provides the utility company with a reasonable alternative location for its facilities.

3. The City shall give written notice of the vacation of any public right-of-way to all utility companies having facilities located within said right-of-way. The vacation of a public right-of-way shall not deprive a utility company of its right to operate and maintain existing facilities in such right-of-way unless the reasonable cost of relocating the same is first paid to the utility company.

141.11 RESTORATION. If a utility company disturbs a pavement, sidewalk, driveway or other surfacing, or landscaping, in any public right-of-way, the utility company shall, in a manner approved by the City, replace and restore all pavement, sidewalk, driveway or other surfacing, or landscaping disturbed, in substantially the same condition and in a good, workmanlike, timely manner, in accordance with the City’s Standard Specifications for Street Patch After Excavating contained in the Appendix of this Code of Ordinances. Such restoration shall be undertaken within no more than thirty (30) days after the damage is incurred, and shall be completed as soon as reasonably possible thereafter. The utility company shall guarantee and maintain such restoration for at least one year against defective materials or workmanship.

(Ord. 611 – Dec. 06 Supp.)

141.12 INSURANCE REQUIREMENT. Except as provided in this section, every utility company maintaining facilities in the public rights-of-way of the City shall keep and maintain at its own cost and expense a policy of commercial general liability insurance issued by a financially responsible insurance company licensed to do business in the State of Iowa with minimum policy limits of not less than two million dollars for each claim and two million dollars general aggregate. The utility company shall provide for not less than thirty (30) days written notice to the City before the policy may be cancelled. The City shall be named as an "additional insured" for the negligent acts of the utility company arising out of its use of the public right-of-way. A certificate of insurance or self-insurance evidencing compliance with the requirements of this
section shall be delivered to the City Clerk. A public utility may satisfy the insurance requirement under this section by self-insurance provided that it maintains the same long-term rating and the same minimum net assets as required by the Iowa Utilities Board for railroad crossings as set forth in 191 IAC 42.9(5), including any amendments thereto. A self-insured utility shall provide proof of satisfaction of said requirements and shall inform the City if it no longer qualifies for self-insurance under the state rule.

(Ord. 744 – Dec. 16 Supp.)

141.13 INDEMNIFICATION. A utility company maintaining any facilities in the public rights-of-way shall, at its sole cost and expense, indemnify, hold harmless, and defend the City, its officials, boards, commissions, commissioners, agents, and employees, against any and all claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the company’s negligent (1) construction, maintenance or operation of its facilities in the public rights-of-way, (2) conduct of its business in the City, or (3) activities in the City’s public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this chapter; provided however, that a utility company need not indemnify or save the City harmless from claims, suits, losses and expenses arising out of the negligence of the City, its employees or agents. The indemnity provided hereunder includes, but is not limited to, the City’s reasonable attorney’s fees and other expenses incurred in defending against any such claim, suit or proceeding.

(Ord. 744 – Dec. 16 Supp.)

(Ch. 141 - Ord. 598 – Nov. 05 Supp.)
[The next page is 735]
CHAPTER 145

DANGEROUS BUILDINGS

145.01  ENFORCEMENT OFFICER. The Mayor 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.

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 WAUKON, 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])

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])

145.09 ALTERNATIVE ABATEMENT. In the alternative to abatement as provided in Section 145.07, the City may seek a court order for abatement of an unsafe building in a municipal infraction prosecution proceeding.

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 of 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.
CHAPTER 146

MANUFACTURED AND MOBILE HOMES

(Repealed by Ord. 546 - Mar. 02 Supp.)
CHAPTER 147

FIRE LIMITS

147.01 FIRE LIMITS ESTABLISHED. The fire limits of the City are hereby defined and established as follows:

Beginning at the intersection of Second Street NW and Second Avenue NW; thence south to the intersection of First Avenue SW and Second Street SW; thence east to the intersection of First Street SW and First Avenue SW; thence south to the intersection of Second Avenue SW and First Street SW; thence east to the intersection of Second Avenue SW and West Street SW; thence south to the north line of Lots No. One and Two in Block “E” of Hersey’s Second Addition to the City of Waukon; thence east along said line to the east end thereof and thence east to the intersection of Rossville Road and Fifth Avenue SE; thence northwesterly along Rossville Road to the intersection thereof with Third Avenue SE; thence east along Third Avenue SE to the intersection thereof with the eighth line running north and south through the Northeast Quarter (NE¼) of Section 31, Township 98 North, Range 5 West of the 5th P.M.; thence north along said eighth line to the intersection thereof with East Main Street; thence east to the intersection of East Main Street and First Street NE; thence north to the intersection of First Street NE and Second Avenue NE; thence west to the place of beginning.

147.02 ERECTION OR REMOVAL OF STRUCTURES WITHIN FIRE LIMITS. It is unlawful for any person to build, construct, or place, by removal or otherwise, within the Fire Limits of the City, any building, structure or part or addition to any building or structure unless the outer walls thereof are made of brick, iron, stone, mortar or other noncombustible material, with a fireproof roof. For the purpose of this section, no building, structure or part thereof shall be held to comply with the provisions of this section if wood or other combustible material enters into the construction or support of the outer walls thereof, or if such walls are covered with tin, zinc, sheet iron, corrugated iron, attached to wooden walls, posts, studding or beams; provided, however, a building, structure or part thereof that does not comply with the requirements of this section may, for reasonable cause, be erected or moved from one place to another within the fire limits if permission is first obtained therefor from the City Council by a vote of two-thirds (2/3) of all of its members.
[The next page is 755]
CHAPTER 150

PROPERTY ADDRESSING STANDARDS

150.01 Purpose. The purpose of this chapter is to establish a uniform system for the naming of streets and the numbering for addressing purposes of all properties within the City.

150.02 Definitions. For use in this chapter, the following definitions shall apply unless the context clearly requires otherwise:

1. “Addressing system zone” means the territory or geographical area, including areas outside the corporate limits of the City, to which this chapter applies or is intended to apply, as indicated on the map contained on page 22 of the Appendix of this Code of Ordinances.


3. “Business” or “business enterprise” means any nonresidential human activity conducted in all or part of a building which does not constitute a dwelling unit (as defined in the Zoning Ordinance).

4. “Main entrance” means a door or doorway on the outside of a building which serves as the primary or most direct access to one or more occupancies located within the building; provided, however, in the case of a building having more than one external door through which the same occupancy can be accessed, if only one door opens to or faces a street or avenue, such door shall be deemed the “main entrance” for all occupancies which may be accessed through that door.

5. “Occupancy” means a dwelling unit (as defined in the Zoning Ordinance) or business enterprise occupying an entire building or an apartment, suite, group of adjacent rooms or a single room within a building. All areas occupied by a business under common control or ownership within the same building shall be deemed part of a single business occupancy.

6. “Principal building” means any enclosed structure which is regularly occupied by or is designed or intended to be regularly occupied...
by one or more persons for residential or business purposes and is not an "accessory building" as defined in the Zoning Ordinance.

7. “Zoning lot” means a single tract of land, under common ownership and/or legal control, used as a unit or designated in a zoning permit application to be used, developed or built upon as a unit. A zoning lot may be composed of all or part of one or more platted lots or parcels described by metes and bounds.

150.03 OFFICIAL ADDRESSING MAPS. There are hereby adopted as the official street-naming and property-numbering maps of the City two maps, entitled Waukon Addressing Map: North-South Streets, and Waukon Addressing Map: East-West Avenues, respectively, which maps, including all designations and information set forth therein, are hereby made a part of this chapter as if the same were fully set forth herein. Said maps shall be referred to jointly as the “Official Addressing Maps” of the City, and they shall be on file in the office of the Clerk. Said maps may be amended or altered only by ordinance. Said maps are intended to reflect the provisions of this chapter but in the event of any conflict between the addressing standards set forth in this chapter and the designations and information set forth in the Official Addressing Maps the Official Addressing Maps shall control.

150.04 ADDRESSING STANDARDS. The general standards for the naming of streets and numbering of properties within the City are as follows:

1. Base Line Streets. East Main - West Main shall constitute the east-west base line which divides the City into northern and southern parts for addressing purposes, and Highway 9 North - Allamakee Street - Spring Avenue - Rossville Road - Highways 9 & 76 South shall constitute the north-south base line which divides the City into eastern and western parts.

2. Street and Avenue Designation. Each City street running generally in a northerly-southerly direction shall be designated as a “Street” and each City street running generally in an easterly-westerly direction shall be designated as an “Avenue,” except as otherwise provided in the Official Addressing Maps.

3. Quadrant Designation. The name of each street or avenue, except base line streets and avenues, shall include the “NE”, “SE”, “SW” or “NW” suffix corresponding to the quadrant of the City in which such street or avenue, or portion thereof, is located with reference to the base lines established in this chapter. As an example, the name of a portion of
any street or avenue located north of the east-west base line and east of the north-south base line shall include the “NE” quadrant suffix.

4. Street Names. Except as otherwise provided in the Official Addressing Maps or this subsection, the names of all streets and avenues shall be ordinal numbers, commencing with the first street or avenue, in both directions, parallel to each base line, which shall be “First Street” or “First Avenue” (plus the appropriate quadrant suffix), with each successive street or avenue to bear the name of the next consecutive ordinal number extending outward to the boundaries of the City’s addressing system zone. However, in the case of new streets and avenues and in the case of existing streets and avenues in areas which are not fully developed, the next consecutive ordinal number shall not necessarily be used; and instead, such streets and avenues shall be assigned ordinal number names corresponding to the nearest block designation grid lines set forth on the Official Addressing Maps. In addition to those street names designated in the Official Addressing Maps which do not conform to the general standards for street names as set forth in this subsection, the following nonconforming street names are hereby established:

   A. The public street extending to the west from Second Street NW, lying between Block 2 and Block 3 of Northgate Addition to the City, which is sometimes referred to as Ninth Avenue NW, is hereby renamed as Northgate Avenue.”

5. Addressing Blocks. Subject to the exceptions set forth on the Official Addressing Maps, the standard addressing block shall be approximately 440 feet in length along the frontage of each street and avenue.

6. Property Numbering System. For addressing purposes, one whole number shall be assigned for every twenty (20) feet of property frontage along every street and avenue within the City’s addressing system zone. The assignment of numbers shall begin at the east-west base line for streets and at the north-south base line for avenues and shall be progressive and consecutive in both directions from each base line. Odd numbers shall be assigned to the east sides of street, including base line streets, north of the east-west base line; on the west sides of streets, including base line streets, south of the east-west base line; on the south sides of avenues, including base line avenues, east of the north-south base line; and on the north sides of avenues, including base line avenues, west of the north-south base line. Even numbers shall be assigned to all other sides of streets and avenues. Numbers from 1 to 99 shall be
assigned to properties along the first block of each street and avenue and each successive block shall commence with consecutive hundreds and one. Property numbering along streets and avenues which are new or are located in areas not fully developed shall be assigned according to the block designation grid lines set forth on the Official Addressing Maps. Property numbers shall be assigned as if each street and avenue extended to the base line, regardless of whether such extensions exist.

150.05 BUILDING AND OCCUPANCY NUMBERING STANDARDS. This section is intended to establish a uniform system for assigning address numbers to buildings and to separate occupancies within buildings, based upon the principle that the ideal numbering system is one which best facilitates the location of buildings and of entrances to separate occupancies within a single building. It is anticipated that separate occupancies within the same building will, in a few situations, have different address numbers and different street addresses. The general standards are as follows:

1. Single Occupancy Buildings. All buildings which contain a single occupancy shall be assigned an address number corresponding to one of the addressing numbers applicable to the zoning lot on which the building is located, as provided in subsection 150.04(6) of this chapter. The specific address number for such building shall be the number corresponding to the 20-foot interval in which the main entrance to the building is located. In the case of single occupancy buildings located on zoning lots with frontage on more than one street or avenue, the address number assigned shall be determined by reference to the street or avenue upon which the main entrance is located or from which the main entrance is most directly accessed. The complete address for a single occupancy building shall consist of the address number and the name of the street or avenue upon which the address number is based.

2. Multiple Occupancy Buildings.
   A. Single Main Entrance. If a building contains more than one occupancy, all of which are served by the same main entrance from the street or avenue, the address of all the occupancies shall include the same address number and street or avenue name determined as provided in the case of single occupancy buildings under subsection 1 of this section. If the occupancies include a business enterprise which is the only business located on the ground floor of the building, that business’ complete address shall consist solely of the address number and the street or avenue name. In all other cases, the address of each occupancy shall also
include a three-digit apartment or suite number determined in accordance with subsection 4 of this section.

B. Multiple Main Entrances from the Same Street or Avenue. If a building contains more than one occupancy and there is more than one main entrance serving separate occupancies, each main entrance serving any business shall be assigned a separate address number determined as provided in the case of single occupancy buildings under subsection 1 of this section, and the complete addresses for all business and dwelling units served by that main entrance shall otherwise be determined in the same manner as provided in subsection A of this subsection. However, main entrances on the same street or avenue in the same building which serve only dwelling units shall be assigned the same address number as the business main entrance on such street or avenue, or if there are no business main entrances on that same street or avenue, the same address number as all other dwelling unit main entrances. In cases where more than one dwelling unit main entrance is required to share the same address number, the address number shall be determined with reference to the main entrance closest to the relevant base line. All dwelling units whose main entrances share the same address number as some other main entrance in the same building shall be assigned different three-digit apartment numbers, pursuant to subsection 4 of this section, the same as if they shared the same main entrance.

C. Multiple Main Entrances from Different Streets or Avenues. If a building has frontages on more than one street or avenue and the main entrances to separate occupancies within the building are located on or are most directly accessed from different streets or avenues, the address for each occupancy, including street name, address number and three-digit apartment or suite number, if applicable, shall be determined with reference to the street or avenue on which its main entrance is located or from which its main entrance is more directly accessed, in accordance with the standards set forth in paragraphs A and B of this subsection and without regard for occupancies whose main entrances are located on or accessed from another street or avenue.

D. Condominiums. Separately owned condominium units which do not share a main entrance with any other condominium units in the same structure shall each be assigned a separate
address number. The address numbers assigned shall be selected from the addressing numbers applicable to the zoning lot on which the condominium structure is located. Condominium units which share the same main entrance shall be assigned the same address number plus separate three-digit unit numbers. The address number shall be one of the addressing numbers applicable to the zoning lot as provided in subsection 150.04(6) of this chapter, and the three-digit unit number shall be determined in accordance with subsection 4 of this section. In the case of zoning lots having frontage on more than one street or avenue, the applicable street name and addressing number for each condominium unit shall be determined with reference to the street or avenue on which the unit’s main entrance is located or from which its main entrance is most directly accessed.

3. Zoning Lots Containing More Than One Principal Building. If a single zoning lot contains more than one principal building, each building shall be assigned a separate address number which shall be one of the addressing numbers applicable to the zoning lot on which the buildings are located, as provided in subsection 150.04(6) of this chapter. Separate occupancies within each building shall be assigned a three-digit apartment or suite number determined in accordance with subsection 4 of this section. However, subsection 4 of this section does not apply to residential buildings completed and occupied prior to January 1, 1995, which are otherwise subject to this subsection, and the separate occupancies within them may retain the occupancy address numbers in use as of such date unless the property owner elects the use of these standards.

4. Three-digit Numbering System for Occupancies in Multiple Occupancy Buildings. Whenever the standards set forth in subsections 1, 2 or 3 of this section require the assignment of a three-digit number to a separate occupancy within a building, such occupancy shall be assigned a number consistent with the following system:

<table>
<thead>
<tr>
<th>Location of Occupancy</th>
<th>Applicable Range of Three-digit Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basement</td>
<td>001 to 099</td>
</tr>
<tr>
<td>Ground Level or First Floor</td>
<td>101 to 199</td>
</tr>
<tr>
<td>Second Floor</td>
<td>201 to 299</td>
</tr>
<tr>
<td>Third Floor</td>
<td>301 to 399</td>
</tr>
<tr>
<td>Fourth Floor</td>
<td>401 to 499</td>
</tr>
<tr>
<td>Fifth Floor</td>
<td>501 to 599</td>
</tr>
</tbody>
</table>
The three-digit number shall be preceded by the term “Apartment” or “Apt.” in the case of a dwelling unit, by the term “Suite” in the case of a business occupancy, and by the term “Unit” in the case of a condominium. No two occupancies having the same address number shall have the same three-digit number.

5. Mobile Home Parks. Except as provided in this subsection, each mobile home park (as defined in the Zoning Ordinance) shall be assigned a single address number which shall be one of the addressing numbers applicable to the zoning lot on which the park is located, as provided by subsection 150.04(6) of this chapter, and each mobile home lot within the park shall be assigned a three-digit lot number. The lot numbers shall begin with 001, shall be consecutive, and shall be noted on the map required to be filed with the Clerk under subsection 165.20(4)(J) of the Zoning Ordinance. The complete address of each mobile home shall consist of the lot number and the address number of the park. However, in the case of parks having internal streets with posted street names as of January 1, 1995, the address of each mobile home shall consist of the mobile home park street name and lot number as determined by the park owner.

6. Prohibited Address Designations. No fractional numbers shall be used as part of any building, main entrance or occupancy address number, nor shall any letters (such as “Apt. A”) be used unless such letters are part of a pre-existing address designation which is exempted from the provisions of this chapter.

150.06 UNDEVELOPED LAND AND FUTURE BUILDINGS. It is not necessary to post any addressing number on any vacant lots or parcels. In the event of future development, the owner of the zoning lot on which a building is to be erected shall be informed of the addressing number or numbers applicable to all principal buildings, main entrances and anticipated occupancies, including three-digit apartment, suite or unit numbers, by the addressing officer at the time of issuance of the zoning permit.

150.07 EXCEPTIONS FOR EXISTING BUILDINGS. Notwithstanding the provisions of this chapter and the Official Addressing Maps, it is not necessary for any property owner to alter the posted or utilized addressing number applicable to any building, main entrance or occupancy as of the effective date of this chapter if all of the following conditions exist:
1. The street name used in such address corresponds to the street name established pursuant to this chapter and the Official Addressing Maps; and

2. The posted or utilized addressing number is within the range of numbers permitted for the block in question as provided in this chapter and in the Official Addressing Maps and does not duplicate any other posted or utilized addressing number; and

3. The posted or utilized addressing number is proper under the odd-even numbering system established by this chapter; and

4. The posted or utilized addressing number is in the correct sequential order as compared to the addressing numbers for other buildings, main entrances or occupancies located in the same block; and

5. There are available unused addressing numbers in the proper sequential order for use in connection with any vacant lots in the event of future development.

However, except as provided in subsection 150.05(3), there shall be no exemptions from the three-digit apartment or suite numbering system applicable to multiple occupancy buildings as set forth in Section 150.05.

150.08 SPECIFIC STREET NAME CHANGES. Without limitation upon any other street name changes which may be necessitated pursuant to the street naming provisions of Section 150.04 of this chapter, certain streets within the City are hereby re-named, as follows:

1. Fifth Street SE shall hereafter be known and referred to as Fourth Street SE.

2. Sixth Street SE, located in the first Hidden Creek Estates Addition to the City, shall hereafter be known and referred to as Fifth Street SE.

3. Seventh Street SE, located in the second Hidden Creek Estates Addition to the City, shall hereafter be known and referred to as Sixth Street SE.

150.09 EXTRATERRITORIAL APPLICABILITY. This chapter shall apply throughout the corporate limits of the City and shall also apply outside of the corporate limits of the City throughout the addressing system zone. Enforcement of the provisions of this chapter beyond the corporate limits of the City shall be pursued with the cooperation of the Allamakee County Board of Supervisors pursuant to Section 1-16 of the Rural Addressing Ordinance of the
County, as illustrated on the map shown on page 22 of the Appendix to this Code of Ordinances.

150.10 ADDRESS NUMBER POSTING REQUIREMENTS. It is the duty of the owner of any zoning lot to post and maintain, at his or her sole expense, all addressing numbers assigned under the provisions of this chapter to any present or future buildings, main entrances and occupancies located or to be located on the zoning lot in accordance with the following requirements:

1. Existing Buildings. In the case of existing buildings, main entrances and occupancies, all required addressing numbers, including three-digit apartment, suite and unit numbers, shall be posted within sixty (60) days of the receipt by the owner from the addressing officer of written notice of the addressing number information applicable to such property, if such numbers have not already been posted, and within that same time period any existing addressing information inconsistent with the numbers assigned pursuant to this chapter shall be removed or permanently concealed.

2. New Construction. In the case of new construction, the applicable addressing numbers, including three-digit apartment, suite and unit numbers, shall be posted prior to any occupation of the new building or within sixty (60) days of completion of construction, whichever first occurs.

3. Front Facing Main Entrances. The addressing number applicable to any main entrance to a building which is located on a side of the building facing a street or avenue shall be posted on or in the immediate vicinity of the main entrance.

4. Side or Rear Main Entrances. In the case of a main entrance located on a side of a building other than the side facing the street or avenue upon which the address number is based, the address number shall be posted on the front side of the building at the corner of the building around or by which the main entrance is most directly accessed from the street or avenue.

5. Distant or Obscured Buildings. In the case of buildings located more than 150 feet from the street or avenue, or buildings the view of which from the street or avenue is obscured by vegetation or other structures, in addition to posting on the building as above provided, the address numbers shall also be posted at the front edge of the zoning lot in the immediate vicinity of the driveway by which the main entrance is accessed. This requirement shall apply in all cases where a single zoning
lot contains more than one principal building and one of the principal buildings is located between the street or avenue and any other principal building.

6. Condominiums. In the case of separately owned condominium units which do not share a main entrance with any other condominium units, the address numbers for units whose main entrances face the street or avenue shall be posted according to the same rules applicable to main entrances in other buildings. The address numbers for condominium units whose main entrances do not face the street or avenue upon which the address number is based shall be posted both on or in the immediate vicinity of the main entrance of the condominium unit and at the front edge of the zoning lot in the immediate vicinity of the driveway by which the main entrance for the condominium unit is accessed.

7. External Posting of Three-digit Number. In addition to the addressing number applicable to a main entrance, there shall also be posted on the outside of a building and in the immediate vicinity of the address number applicable to the main entrance, the three-digit numbers applicable to all apartments, suites and units served by the main entrance. In the case of main entrances serving numerous apartments, suites or units, this requirement may be satisfied by posting, for each floor, the range of apartment, suite or unit numbers (example, Apts. 101-105 and 201-204).

8. Number Visibility Requirements. All addressing numbers required to be posted on buildings shall be conspicuously displayed and of such size and color as to be identifiable in daylight at a distance of 150 feet. All three-digit apartment, suite and unit numbers required to be posted shall be identifiable in daylight at a distance of 25 feet. All addressing numbers required to be posted at the entrance to driveways, as provided in subsections 5 and 6 of this section, shall be displayed in such manner as to be readily identifiable from the street or avenue.

9. Internal Three-digit Numbers. In the case of buildings having any main entrance which serves more than a single occupancy, the three-digit apartment, suite or unit number applicable to each occupancy shall, in addition to the external posting requirement, be posted on or immediately adjacent to the internal entrance door for such occupancy. This number shall be conspicuously displayed.

10. Mobile Homes. The address number of a mobile home park shall be conspicuously posted in the immediate vicinity of each driveway or entrance to the mobile home park from the street or avenue. The mobile
home lot number shall be posted on the side of the mobile home from
which the number may be most readily observed from the public street
or avenue or from the internal mobile home park street from which the
mobile home is most readily accessed.

150.11 ADDRESSING OFFICER. The zoning officer of the City shall also
serve as the address officer of the City. The duties of the addressing officer
include the following:

1. Correcting and Updating Official Addressing Maps. Make any
necessary corrections to the Official Addressing Maps and update such
maps so as to set forth correct and current names for all existing and
future streets, and block designation grid lines, subject to Council
approval by ordinance.

2. Assignment of Addressing Numbers. To assign, upon
investigation, addressing numbers, including three-digit apartment, suite
and unit numbers, to new and remodeled buildings, and to furnish such
information to the applicant when zoning permits are issued; and to
otherwise furnish proper addressing numbers to building owners upon
request.

3. Investigation and Notification. To review addresses currently
used for occupancies in existing buildings and address number posting
practices and, upon determination of non-compliance with the
requirements of this chapter, to send written notice to building owners
informing them of the correct addressing numbers, including three-digit
apartment, suite and unit numbers, and of the number posting
requirements, and requesting compliance. Such investigation and
notification may be made in conjunction with the Allamakee County
E911 Board.

4. Interpretation. To exercise reasonable discretion in the
interpretation and application of the standards and requirements of this
chapter.

5. Enforcement. To notify the Mayor and the City Attorney of any
non-compliance, following notice, with the requirements of this chapter
by any property owner and to assist as may be necessary in any
enforcement proceedings.

6. Preparation of Reference Map. To compile and print a reference
map showing all street names and the scheme of the address system, to
be available at a cost set by the Council.
7. Notification to Other Governmental Agencies. To notify emergency services providers, the County E911 system, the U.S. Postal Service and other government officials of the addressing system established by this chapter and to coordinate all new address assignments with such persons and entities.
CHAPTER 151

TREES AND VEGETATION

151.01 PLANTING RESTRICTIONS. No person shall plant or cause to be planted any tree or other vegetation, other than common varieties of grass or flowers, on any real property owned by the City, including the parking or boulevard areas between streets and sidewalks or abutting private properties, except in accordance with the provisions of this chapter. The provisions of this section shall not apply in the following cases:

1. To City employees or agents acting under the direction of City officials responsible for the supervision of City property;

2. To trees or other vegetation planted or growing on City property on the effective date of this section.

151.02 TREE PLANTING SPECIFICATIONS. Trees may be planted on City-owned parking or boulevard areas along public streets by the owners of the abutting property or by City employees or agents, but only in accordance with all of the following requirements and restrictions:

1. Spacing.

   A. All trees planted in any street shall be planted midway between the outer line of the sidewalk and the curb. In the event a curb line has not been established, trees shall be planted midway between the sidewalk and the traveled portion of the street. In the event a sidewalk has not been established, trees shall be planted midway between the property line and the curb or, if none, the traveled portion of the street. However, in no case shall a tree be planted closer than twenty (20) feet from the centerline of the street pavement; nor shall any tree be planted in a boulevard strip which is narrower than five (5) feet between the edge of the sidewalk and the edge of the curb (or traveled portion of the street if no curb), or, if there is no sidewalk, which is narrower than nine (9) feet between the property line and the edge of the curb (or traveled portion of the street if no curb).
B. Trees planted on such public parking or boulevard areas shall have a minimum spacing of forty (40) feet between trees.

2. Distance From Street Corners and Fire Hydrants. No street tree shall be planted closer than thirty-five (35) feet from any street corner, measured from intersecting street right-of-way lines. No street tree shall be planted closer than twenty (20) feet from any fire hydrant.

3. Utilities. No trees may be planted under or within ten (10) lateral feet of any overhead utility wire except those species identified in subsections M through V of subsection 7 of this section.

4. Quality of Trees Planted. All standard sized trees shall have comparatively straight trunks, well-developed leaders, and top and root characteristics of the species or variety showing evidence of proper nursery pruning. All trees must be free of insect, disease, mechanical injuries and other objectionable features at the time of planting. To compensate for any serious loss of roots, the top of the tree should be reduced by thinning or cutting back as determined by the growth characteristics of the tree species. The leader(s) shall not be cut off in such trimming.

5. Planting of Trees.
   A. Newly planted bare root trees shall be guyed or supported in an upright position. The guys or supports shall be fastened in such a way that they will not girdle or cause serious injury to the trees or endanger public safety. Each tree shall have at least two guys or supports.
   B. Trees not purchased from a commercial nursery shall have an adequate root system and branches shall be pruned back from one-fourth to one-third from its pre-planted size.

6. Trimming.
   A. Trees that may interfere with ungrounded electric supply conductors shall be trimmed or removed.
   B. The topping of trees on public property, as a method of pruning, is prohibited unless approved by the Tree Board with respect to specific trees where, because of severe damage by storms or other causes or location under utility wires or other obstructions, other pruning practices are impractical. Selective branch thinning, proper early training or entire tree removal should be favored over the practice of topping.
CHAPTER 151  TREES AND VEGETATION

7. Permitted Tree Species. Only those tree species listed in this subsection may be planted on City property along public streets. Varieties of these species are permissible provided they are thornless or fruitless varieties.

A. (Repealed by Ord. 679 – Nov. 10 Supp.)
B. Beech (American and European)
C. Cork Tree
D. Elm (disease resistant varieties)
E. Ginkgo
F. Hackberry
G. Linden (American, Greenspire, Little Leaf and Redmond)
H. Locust (Skyline and Imperial)
I. Maple (Norway, Rubrum and Sugar varieties)
J. Oak (Red, Swamp White, White and Burr)
K. Pear (ornamental)
L. Sycamore
M. Maple (Amur, Tatarian and Shantung)
N. Serviceberry
O. American Hornbeam
P. Pagoda Dogwood
Q. Hawthorn (Thornless Cockspur and Winter King)
R. Amur Maackia
S. Flowering Crabapple
T. Japanese Tree Lilac
U. Eastern Redbud
V. Witchhazel (Common and Vernal)
W. Coffee Tree
X. Hickory (seedless varieties)
Y. Magnolia
Z. Poplar

(Ord. 679 – Nov. 10 Supp.)
All the trees planted on City-owned real estate become the property of the City and the planting of a tree shall not create any property rights in any person or entity other than the City. Any trees planted on City property in violation of law or these rules shall be subject to removal by the City.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. Removal from City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the Council 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 the disease or the insect or disease pests. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the Council 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 fourteen (14) days of said notification. If such owner, occupant or
person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the nuisance to be removed and the cost assessed against the property.

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

151.07  WEEDS AND OTHER NOXIOUS GROWTHS. No person shall permit any weeds, thistles, brush or noxious plants to overhang or encroach upon or grow immediately adjacent to any sidewalk or to grow or remain on any parking or sidewalk space or street in front of the property owned or occupied by such person. Upon the failure of such person to cut and remove such weeds, thistles, brush or plants on five (5) days’ notice from the City, such weeds, thistles, brush or plants, as the case may be, shall be cut and removed by the City, and the costs and expenses of such cutting and removing, including service of such notice, shall be assessed against the property owner for collection in the same manner as a property tax.
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## CHAPTER 155

### SIGNS

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### 155.01 TITLE.** This chapter shall be known and may be cited and referred to as the “Sign Ordinance” of the City of Waukon, Iowa.**

### 155.02 PURPOSE. The purpose of this chapter is to establish the authority of the City with regard to the type of construction of signs located within the City and for sign regulations that are intended to facilitate an easy and agreeable communication between people. The regulations recognize the need to protect the safety and welfare of the public, the need for well maintained and attractive signs in the community, and the need for adequate public and business identification, advertising and communication. These regulations do not attempt to regulate design or copy content of any permitted sign. However, a great percentage of that which is unattractive can be eliminated by sensible quality control, through adequate maintenance and inspection and by reasonable guidelines formulated to minimize clutter.

### 155.03 DEFINITIONS. For purposes of this chapter, unless the context otherwise requires, the following definitions shall apply:

1. As Defined in Zoning Ordinance. The following terms have the meanings given in Chapter 165 of this Code of Ordinances:

   A. “Lot” or “zoning lot”
   B. “Lot line”
   C. “Frontage”
   D. “Home occupation” — provided that such use has been duly authorized as required in Chapter 165
   E. “Mobile home” and “mobile home park”
F. “Shopping center”
G. “Street”
H. “Vision clearance triangle”
I. “Zoning Administrator”
J. “Zoning permit”

2. “Billboard” means a sign which has a flat surface sign face upon which advertising may be posted, painted, or affixed, and which is primarily designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists.

3. “Public property” means all real property owned by the City or dedicated to public use, including the entire width of all public street and alley rights-of-way.

4. “Sign” means any object or device, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to any object, person, institution, organization, business product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, color, motion, illumination, or projected images. A sign includes any billboard, freestanding sign, ground sign, wall sign, roof sign, illuminated sign, projecting sign, portable sign, and temporary sign. A sign does not include the following: flags of nations, states, and cities; objects or devices visible through windows; or works of art, except murals, which in no way identify a product or device.

5. “Sign area” or “sign face area” means the area determined by the Zoning Administrator using actual dimensions where practicable, or approximate dimensions when irregularity or sign shape warrants. Such area shall include the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display. The area of a sign composed of characters or words attached directly to a building or wall surface shall be the smallest rectangle which encloses the whole group.

6. “Sign, building or wall” means any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall, including signs painted directly on a wall. All murals, regardless of nature or purpose, painted on or attached to the walls of any structures shall be deemed wall signs. A wall sign shall not extend above the roof line.
7. “Sign, canopy” means a sign attached to a canopy. A sign attached to a canopy shall not exceed three feet in height and must have nine feet clearance between the sign and ground level. No sign may be attached to the top of a canopy.

8. “Sign, directory” means a sign containing the name of a building, complex, or center and two or more identification signs of the same size, color, and general design which identify the occupants thereof.

9. “Sign face” means the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

10. “Sign, free-standing” or “ground sign” means a sign which is supported by one or more uprights or braces in or upon the ground and not attached to any building or wall. No supporting structure shall contain more than one sign or sign face per side except as otherwise specifically permitted in this chapter.

11. “Sign, indirectly lighted” means a sign illuminated by artificial light reflecting from the sign face, the light source not visible from any street right-of-way.

12. “Sign, institutional bulletin board” means an on-premises sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institution, and the announcement of its services or activities.

13. “Sign, off-premises” means a sign that is not an on-premises sign.

14. “Sign, on-premises” means a sign the primary purpose of which is to identify and/or direct attention to a profession, business, services, activity, product, campaign, or attraction manufactured, sold, or offered upon the premises where such sign is located.

15. “Sign, pole” means a sign wholly supported by a single structure in the ground.

16. “Sign, portable” means a free-standing sign not permanently anchored or secured. All portable signs are temporary signs.

17. “Sign, projecting” means a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

18. “Sign, roof” means a sign erected upon or above a roof or parapet of a building or structure.

19. “Sign, service” means a sign identifying rest rooms and other service facilities.
20. “Sign structure” means any structure which supports or is capable of supporting any sign as defined in this chapter. A sign structure may be a single pole and may or may not be an integral part of the building.

21. “Sign, temporary” means any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a limited period of time only. All portable signs shall be deemed temporary signs.

22. “Sign, wall” — See “sign, building or wall.”

23. “Zoning Board of Adjustment” means the administrative agency created pursuant to Chapter 165 of this Code of Ordinances.

24. “Zoning district” means a district established and defined pursuant to Chapter 165 of this Code of Ordinances.

155.04 EXEMPTIONS. With the exception of Sections 155.05, 155.07, 155.08, and 155.10 and the safety-related provisions of Section 155.20, which shall apply to all signs within the City, the provisions and regulations of this chapter shall not apply to the following signs:

1. Real estate signs not exceeding six (6) square feet in area which advertise the sale, rental, or lease of the premises or part of the premises on which the signs are displayed. Such signs shall be non-illuminated and may not be located in or upon the street right-of-way. When property advertised for sale is five (5) acres or more in size, the sign advertising sale may be up to 50 square feet in size providing it shall not be closer than 100 feet to any home, only one sign shall be allowed per subdivision and the sign must be removed when unsold property totals less than five acres.

2. Construction signs identifying the architects, engineers, contractors, and other individuals involved in the construction of a building or project, and such signs announcing the character of the building enterprise or the purpose for which the building is intended but not including product advertising. One such non-illuminated sign not to exceed sixty (60) square feet shall be permitted. Such sign shall not extend higher than twelve (12) feet above grade level or be closer than twenty (20) feet to any property line unless located on the wall of a building on the premises or on a protective barricade surrounding the construction site. Such signs shall be removed within one week following completion of construction.
3. Political campaign signs announcing or promoting candidates seeking public office or pertinent political issues; provided that this exemption shall apply only to signs which are located on private property with the consent of the property owner and which are erected not more than 45 days before the election to which they pertain and are removed not more than 7 days after such election.

4. Special event signs, including street banners, which notify the public of noncommercial community events including but not limited to fairs, centennials, festivals, and celebrations open to the general public and sponsored or approved by the City, the County or the school district; provided, however, that no such signs shall be erected or placed on or over any public property or right-of-way without the prior approval of Council and that all such signs shall be removed not later than twenty-four hours after the end of the special event.

5. Seasonal decorations pertaining to recognized national holidays and national observances under regulations established by the Council.

6. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

7. Traffic or other municipal or state signs, legal notices, railroad crossing signs, danger, and such temporary, emergency, or non-advertising signs as may be approved by the Police Chief and/or the Council.

8. Signs which are accessory to the use of any kind of vehicle if the sign is painted or attached directly to the body of the vehicle.

9. Insignias, flags, and emblems of the United States, the State of Iowa, and municipal and other bodies of established government, or flags which display the recognized symbol of a non-profit and/or noncommercial organization.

10. Signs located within buildings, including signs visible through windows.

11. Signs of a noncommercial nature and in the public interest, erected by or upon order of a public officer in the performance of his/her public duty, such as safety signs, danger signs, trespassing signs, memorial plaques, signs of historical interest, and all other similar signs, including signs designating hospitals, libraries, schools, parks, airports, and other institutions or places of public interest or concern.
12. Signs notifying the public of the existence and/or location of local religious, charitable and civic organizations and their facilities.

13. Temporary signs advertising or promoting an event or activity sponsored by a public, religious or other non-profit organization.

14. Temporary signs on private property in residential zoning districts advertising garage sales or the sale of night crawlers.

15. Signs welcoming visitors to the community or area erected by civic organizations, provided that no individual businesses are named or identified thereon and, further provided, that all such signs are approved in advance by the Council.  

(Ord. 557 - Dec. 02 Supp.)

155.05 SIGNS AND AWNINGS ON OR EXTENDING OVER PUBLIC PROPERTY.

1. No sign or sign structure shall be erected, placed or maintained on public property without the prior approval of the Council, except for traffic and other public signs erected by or upon the order of public officials in the performance of their duties, and except for temporary signs approved by the Zoning Administrator as provided in subsection 2. This subsection shall not apply to signs not otherwise prohibited by this chapter which extend over public property from adjoining structures to which they are attached.

2. Temporary signs located on public property in the B-1 zone may be approved by the Zoning Administrator without prior Council approval until the next regular City Council meeting provided the following conditions are satisfied:

A. Only one such sign may be placed in front of a single commercial premises.

B. The sign must be such that it would qualify as an "on-premises sign" if located on the adjoining business premises.

C. A sign shall not be placed on public property if an open yard exists in front of the commercial building.

D. No sign shall be placed on the traveled portion of any street.

E. The sign must be immediately adjacent to the commercial building, but shall not be attached to it or to the public property.

F. The sign shall not exceed 30 inches in width nor 48 inches in height.
G. No sign shall be approved if its placement would leave less than four (4) feet of unobstructed space on the public sidewalk adjoining the building.

H. The sign is displayed on public property only during the open business hours of the adjoining business and only during daylight hours.

I. The sign does not block or hinder access to any doorway or fire exit.

J. The sign owner has signed an agreement to indemnify the City in the event of any claim or expense relating to the presence of the sign on public property.

K. The sign owner has filed a written application with the Zoning Administrator and paid a nonrefundable application fee of $25.00.

If approved by the Council at its next regular meeting the Zoning Administrator shall issue a permit which will be valid for one year, if the conditions listed above remain satisfied, and may be renewed if approved by the Council upon payment of an annual renewal fee of $25.00.

3. All signs extending over public sidewalks shall be placed at least nine (9) feet above the sidewalk surface.

4. All signs extending over public streets or alleys shall be placed at least fifteen (15) feet above the road surface.

5. All awnings and canopies extending over public sidewalks shall be placed at least nine (9) feet above the sidewalk surface.

6. All signs, awnings and canopies extending over any public property shall be securely fastened and constructed so that there is no unreasonable danger of collapse due to wind or any other cause.

7. No sign, awning or canopy extending over any public property shall obstruct the visibility of any traffic control device, otherwise interfere with the safe operation of motor vehicles, or encroach unnecessarily on the visibility of signage on adjoining property.

8. No sign extending over any public property shall be illuminated in whole or in part by floodlights or spotlights.

9. Nothing herein shall be deemed to authorize any sign not specifically permitted under Section 155.16, except as provided in subsection 2.

(Ord. 678 – Nov. 10 Supp.)
155.06 WIND PRESSURE AND DEAD LOAD REQUIREMENTS. All signs and sign structures shall be designed and constructed to withstand a wind pressure of not less than twenty-five (25) pounds per square foot of area and shall be constructed to receive dead loads as required in the State Building Code or other ordinances of the City.

155.07 OBSTRUCTIONS TO DOORS, WINDOWS OR FIRE ESCAPES. 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 standpipe or fire escape.

155.08 SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD. No sign or sign structure shall be erected within any vision clearance triangle, except in the “B-1” zoning district, 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 use of the words, “STOP”, “LOOK”, “DANGER”, or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic. No sign or sign structure, other than traffic and other public signs, shall have posts, guides, or supports located within any public street unless the Council specifically approves the placement and location of the sign and/or sign structure.

155.09 GOOSE NECK REFLECTORS. Goose neck reflectors and lights shall be permitted on free-standing or ground signs, roof signs, and wall signs, provided, however, the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property.

155.10 MAINTENANCE. All signs and sign structures, together with all of their supports, braces, guys and anchors, shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times.

155.11 INSPECTIONS. All signs and sign structures shall be subject to inspection by the Zoning Administrator. Footing inspections may be required for all signs having footings. All signs containing electrical wiring or electrical components shall bear the label of an approved testing agency. The Zoning Administrator may order the removal of any sign that is not maintained in accordance with the provisions of Section 155.10. All signs may be reinspected at the discretion of the Zoning Administrator.
155.12 SIGN PERMIT REQUIRED. It is unlawful for any person to erect, post, structurally alter, relocate within the City or maintain or cause to be erected, posted, altered, relocated or maintained any sign or sign structure without first obtaining a permit from the Zoning Administrator and making payment of the required permit fee, or to maintain any sign or sign structure after the revocation or expiration of any permit issued for such sign.

155.13 PERMIT APPLICATION AND ISSUANCE.

1. Applications. An application for a sign permit shall be made to the Zoning Administrator on a form provided by the City and shall contain or have attached thereto the following information:

   A. Name, address and telephone number of the applicant.

   B. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.

   C. A site plan indicating the position of the sign or other advertising structure in relation to the lot lines, the building(s) on the lot, and nearby buildings or structures.

   D. One blueprint or drawing of the plans and specifications and method of construction and attachment to the building or in the ground.

   E. Name of person, firm, corporation, or association erecting the sign.

   F. Written consent of the owner of the building, structure, or land on which the sign is to be erected.

   G. Such other information as the Zoning Administrator shall require to show full compliance with this chapter and all other ordinances of the City.

   H. Description of nature or type of any illumination planned for the sign (i.e., direct, indirect, etc.).

2. Permit Fee. The applicant shall file with the sign permit application an administration and inspection fee in the amount of twenty-five dollars ($25.00) which shall be deposited in the City’s General Fund.

3. Applicant. The applicant for a sign permit shall in all cases be the owner of the sign.
4. Time; Rejections. Except as may be otherwise provided in this chapter, the Zoning Administrator shall issue a sign permit or deny a sign permit application within 10 days after receipt of an application, provided that the required information is contained in the application and the other conditions set forth in this section have been satisfied by the applicant. The Zoning Administrator shall deny any application which is not filed in conformity with this section or which proposes a sign or sign structure which would be contrary to the provisions of this chapter. Any denial of a sign application shall be given in writing with the reasons for such denial stated thereon. Any denial notice shall also inform the applicant of the right of appeal to the Zoning Board of Adjustment. If an application is denied, the permit fee shall be refunded to the applicant.

5. Issuance. A sign permit shall be issued by the Zoning Administrator when the application and the investigation thereof indicates compliance by the applicant with all of the provisions of this chapter and all other applicable laws of the City and State.

6. Records. A careful record of all permit applications and permits shall be maintained by the Zoning Administrator.

7. Validity. A sign permit, other than a temporary sign permit, shall remain valid until the sign is removed or until the permit is revoked as provided in Section 155.21, but no permit shall authorize the subsequent structural alteration or relocation of the sign for which it was issued.

155.14 TEMPORARY PERMITS. Temporary signs, including all portable signs, do not qualify for permanent sign permits under Section 155.13 and it is unlawful to erect, place, locate or maintain a temporary sign unless a temporary sign permit has been issued for such sign, in accordance with this section, for each location where such sign is erected, placed or located. Application for temporary sign permits shall be made on the same form and in the same manner as provided in Section 155.13, except that the application and permit shall also specify the number of days for which the permit shall be valid and the permit fee shall be five dollars ($5.00). Temporary sign permits shall be valid for a period not to exceed thirty (30) days. Additional permits may be issued but not more than three (3) temporary permits shall be issued for the same location in any calendar year.

155.15 APPEALS AND VARIANCES. Except as provided in Section 155.20, any person aggrieved or affected by any decision of the Zoning Administrator with respect to signs and any person desiring a variance from the terms of this chapter, may appeal to the Zoning Board of Adjustment following the same procedures for appeals and variances as set forth in Chapter 165 of this...
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Code of Ordinances, including the fee provisions. In acting on any such appeal or variance request, the Board shall be subject to the same procedural requirements and limitations provided for such matters under the Zoning Ordinance, except that, in the case of variances, unnecessary hardship shall not be found to have been established by the applicant unless a commercial need for a sign is shown and no sign of any type would be permitted without a variance on the premises in question under the applicable provisions of this chapter. In no event may unnecessary hardship be established with respect to an off-premises sign or sign structure nor shall any sign or sign structure be authorized which would constitute a traffic hazard or which, without Council approval, would be erected or located in whole or in part on any public property.

155.16 PERMITTED SIGNS. Subject to all other restrictions and prohibitions set forth in this chapter, only the signs specifically permitted in this section are lawful and no person shall erect, construct or maintain any sign or sign structure which is not authorized herein. All references to districts in this section mean the various zoning districts as established under Chapter 165 (the City Zoning Ordinance).


   A. One on-premises sign upon which is displayed the name of a religious institution, school, library, community center, or similar institution and the announcement of its services or activities. Such sign shall be either non-illuminated or indirectly lighted with non-flashing white light, shall have not more than two (2) sign faces, said sign faces to be parallel, and shall not exceed twenty-four (24) square feet per sign face. No such sign shall be located closer than twenty (20) feet to any lot line.

   B. One on-premises identification sign not to exceed two (2) square feet in area shall be permitted for each one-family dwelling if a home occupation is conducted therein. In the case of two-family dwellings, one such sign shall be allowed for each dwelling unit.

   C. For permitted commercial uses, one free standing sign shall be allowed. Said sign shall consist of no more than two (2) faces; said faces to be parallel and not to exceed fifty (50) square feet in area per sign face. No such sign shall be located closer than twenty (20) feet to any lot line.

2. Signs Permitted in the “R-1”, “R-2” and “R-3” Residential Districts.
A. One on-premises identification sign not to exceed two (2) square feet in area shall be permitted for each one-family dwelling. In the case of two-family dwellings one such sign shall be allowed for each dwelling unit. Any such sign must be attached to the dwelling unit.

B. One on-premises identification sign not to exceed two (2) square feet in area shall be permitted for each one-family dwelling if a home occupation is conducted therein. In the case of two-family dwellings, one such sign shall be allowed for each dwelling unit. Any such sign must be attached to the dwelling unit.

C. One on-premises sign upon which is displayed the name of a religious institution, school, library, community center, or similar institution and the announcement of its services or activities. Such sign shall be either non-illuminated or indirectly lighted with non-flashing white light, shall have not more than two (2) sign faces, said sign faces to be parallel, and shall not exceed twenty-four (24) square feet per sign face. No such sign shall be located closer than twenty (20) feet to any lot line.


A. Signs permitted in and as limited in Subsection 155.16(2).

B. One on-premises identification sign not to exceed 8 square feet in area for each multiple dwelling complex containing eight (8) or more units, but less than sixteen (16) units. Any multiple dwelling complex containing sixteen (16) or more dwelling units shall be permitted one on-premises identification sign not to exceed twenty-four (24) square feet in area per sign face. Signs permitted above may be located in the required front yards, but may not be closer than twenty (20) feet to any side or rear lot lines.

C. For permitted commercial uses, one on-premises free standing sign shall be allowed. Said sign shall consist of no more than two (2) faces; said faces to be parallel and not to exceed twenty four (24) square feet in area per sign face. The sign may not be located in or overhang any public property. The sign may be located in the required front yard, but may not be located closer than twenty (20) feet to any side or rear lot lines.
D. One on-premises identification sign not to exceed twenty-four (24) square feet in area per sign face may be erected in the “R-5” zoning district for any mobile home park which contains ten (10) or more mobile home lots. The sign may not be located in or overhang any public property, and may not be located closer than twenty (20) feet to any side or rear lot line that abuts any residential zoning district.


A. One on-premises projecting sign for each individual business located on a lot, that does not protrude more than twelve (12) inches from the wall to which it is attached. This restriction shall not in any way impair the use of standardized signs attached to sidewalk canopies or the use of free-standing directory signs identifying the entire business district in prominent display places including public parking lots and public rights-of-way, provided that no sign or sign structure may be erected or placed on public property without the approval of the Council. The sign face of a sidewalk canopy sign shall not exceed four (4) square feet.

B. One on-premises free-standing sign structure per lot. Each such sign structure may include multiple signs or sign faces on not more than two (2) sides, provided that each such sign or sign face shall be parallel to all other signs or sign faces on the structure and that the total combined area of all signs or sign faces on each side of the structure does not exceed fifty (50) square feet.

C. Wall signs shall not be limited in number. However, the total square footage of the sign face area of all wall signs shall not be greater than 20% of the wall area upon which such signs are attached or displayed.

D. In addition to any other permitted signs within the district, electronically controlled public service time, temperature and date signs, and message centers or reader boards containing only public service information, where different copy changes are shown, are permitted. Such signs may be wall, roof or projecting signs and may exceed the 12-inch protrusion limits stated in subsection A if approved by the Council.

E. Menu signs are permitted in addition to any other permitted signs within the district. However, such signs shall be located to the rear or to the side of the principal building located on any lot.

A. Signs permitted in and as limited in Subsection 155.16(3).

B. On-premises free-standing signs as permitted in this subsection, subject to the requirements of subsection C of this subsection. If a lot’s frontage on a street is two hundred (200) feet or less, one free-standing sign shall be permitted and shall consist of no more than two (2) faces; said faces to be parallel and not to exceed one hundred (100) square feet in area per sign face. If a lot’s street frontage is greater than two hundred (200) feet, one (1) free-standing sign shall be permitted and shall consist of no more than two (2) faces; said faces to be parallel and not to exceed one-half (.5) square foot per foot of lot frontage, with a maximum of two hundred (200) square feet per sign face; or, in lieu of the foregoing, two (2) free-standing signs may be permitted provided that each such sign shall not have a sign face area in excess of one hundred fifty (150) square feet. If a lot has frontage on more than one street, one free-standing sign shall be permitted per street frontage. The size of said free-standing signs shall be governed by the amount of street frontage as stated in this subsection. However, if the secondary frontage is less than the primary frontage, the maximum size of the sign on the secondary frontage shall be reduced from 100 square feet to 50 square feet if the frontage is 100 feet or less, and to 25 square feet if the frontage is less than 50 feet. If a lot, or several adjoining lots, constitute a shopping center as defined in Chapter 165 (the City Zoning Ordinance), the entire shopping center shall be treated as one lot for purposes of this subsection.

C. Supports for all free-standing signs shall be located on private property and shall not be located on public property. Likewise, the sign itself may not overhang public property, except as otherwise provided in this chapter. No portion of any permitted free-standing sign located within twenty (20) feet of the street right-of-way line shall be less than twelve (12) feet above grade level. The Zoning Administrator may permit the location of a ground sign or a free-standing sign less than twelve (12) feet above the ground surface within twenty (20) feet of the street right-of-way line, provided the size and location of said sign will not obstruct or impair the visibility of pedestrians or motorists.
D. Roof signs shall be permitted but shall not extend above the roof peak or highest roof line of the building and the total square footage of the sign face area of all signs shall not exceed twenty percent (20%) of the roof area to or on which they are erected or attached.

E. Wall signs are permitted and are not limited in number. However, the total square footage of the sign face area of all wall signs shall not be greater than 20% of the wall area upon which such signs are attached or displayed.

F. Free-standing entrance and exit signs are permitted in addition to any other permitted signs within the district. Such signs shall not be more than four (4) square feet in area per sign face.

G. Electronically controlled public service time, temperature, and date signs, message centers or reader boards, where different copy changes are shown, are permitted. However, such signs must comply with all requirements of this subsection.

H. Menu signs are permitted in addition to any other permitted signs within the district. However, such signs shall be located to the rear or to the side of the principal building located on any lot.

I. Off-premises signs, subject to the provisions of Section 155.17.

155.17 OFF-PREMISES SIGNS. Notwithstanding any other provisions of this chapter, no off-premises sign, including billboards, are permitted unless all of the following conditions have been met:

1. The location of said sign must be in a “B-2” or “M-1” zoning district.

2. The location of said sign is not within one hundred (100) feet of an “R-1”, “R-2”, “R-3”, “R-4”, or “R-5” zoning district.

3. Billboards located on the same street facing the same traffic flow shall not be located closer together than five hundred (500) feet. Double-faced signs shall be considered as facing traffic flowing in opposite directions.

4. The height of said sign is within all height limitations of the zoning district in which the sign is located.

5. The size of said sign shall be limited to 300 square feet in area. Double-faced signs shall be permitted. If a single-faced sign is erected,
the back shall be suitably painted or otherwise covered to present a neat and clean appearance.

6. Billboards attached to a building shall not project above the roof line of the building or be located on the roof of a building.

155.18 PROHIBITED SIGNS. Signs hereinafter designated are prohibited in all zoning districts:

1. Obsolete Signs. Such signs that advertise an activity, business, product, or service no longer conducted on the premises on which the sign is located. Off-premises or billboard signs shall be deemed obsolete if the activity, business, product, or service is no longer being conducted at the location being advertised. Obsolete signs shall be removed no later than sixty (60) days after they become obsolete.

2. Portable Signs. As defined in Section 155.03, except as may otherwise be permitted in this chapter pursuant to a temporary sign permit. Portable signs not located on public property may be maintained in their existing locations on the effective date of this chapter for a period of three (3) years without the requirement of a temporary sign permit. After three (3) years the use of such signs shall be prohibited unless authorized pursuant to a temporary sign permit.

3. Signs on Public Property. Any sign or sign structure located in whole or in part on public property, except traffic and other public signs and signs specifically approved by the Council.

4. Abandoned Signs. Any sign or sign structure that has been abandoned or not used for sign purposes for at least six (6) months.

155.19 PRE-EXISTING NONCONFORMING SIGNS.

1. If a sign exists on the effective date of this chapter or any amendment hereto which was lawful under all laws, including zoning laws, in effect immediately prior to the effective date, but which would not be allowed under the terms of this chapter or any amendment, such sign may continue to be used and maintained so long as it remains otherwise lawful and no sign permit shall be required for it.

2. The use and maintenance of a sign described in subsection 1 shall be subject to the provisions of the Zoning Ordinance relating to nonconforming uses, insofar as they are logically applicable to signs.

3. For purposes of subsection 1, no sign shall be construed to exist on the effective date of this chapter unless it was completely erected
prior to said date or partially erected under a valid building or zoning permit issued not more than thirty (30) days prior to said date.

4. Nothing contained in this section shall permit the continued existence of those signs prohibited under Section 155.18.

155.20 UNSAFE AND UNLAWFUL SIGNS. If the Zoning Administrator finds that any sign, sign structure or other structure regulated hereunder is unsafe or not securely fastened 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 officer shall give written notice thereof to the permit holder or, if no permit has been issued, to the owner of the property on which the sign or structure is located. 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 or property owner fails to remove or alter said sign so as to comply with the order within ten (10) days after such notice, said sign or other structure may be removed or altered to comply by the Zoning Administrator at the expense of the permit holder or, if no permit has been issued, the owner of the property on which it is located. The permit holder or property owner may appeal the order of the Zoning Administrator to the Council, and, if such an appeal is on file, the ten-day compliance period shall be extended until ten days following the Council’s decision on the matter. Before deciding the appeal the Council shall afford the appellant the opportunity for a public hearing. If, however, the Zoning Administrator finds that any sign or other structure poses a serious and immediate threat to the health or safety of any person, the Zoning Administrator may order the removal of such sign summarily and without notice to the permit holder or property owner. Such an order may be appealed to the Council, and if the Council reverses, it shall order restitution at the City’s expense.

155.21 PERMIT REVOCATION. The sign permit of any permit holder who fails to comply with an order of the Zoning Administrator issued under Section 155.20 within the allotted time period, or who fails to pay reasonable repair or removal costs assessed under Section 155.20, shall be revoked by the Zoning Administrator who shall in such cases issue a written notice of revocation to the permit holder. If a sign permit is revoked, a new sign permit for the same or any similar sign shall not be issued to the former permit holder for a period of one (1) year from the date of revocation.

155.22 ENFORCEMENT AND VIOLATIONS.

1. It is the duty of the Zoning Administrator, with the aid of the Police Department and the City Attorney, to enforce the provisions of
this chapter. The Zoning Administrator shall promptly report all violations to the City Attorney and the Mayor.

2. If any sign or other structure regulated under this chapter is erected, constructed, reconstructed, altered, repaired, converted, moved, maintained or used in violation of this chapter or in violation of the terms and conditions of any permit or regulations issued or made under the authority of this chapter, the City Attorney, at the direction of the Council, shall, in addition to other remedies, institute any appropriate action or proceedings in any court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, movement, maintenance, or use, to restrain, correct, or abate such violation, or to prevent any illegal act, conduct, business, or use relating to such sign or other structure.

3. Any person who violates, disobeys, neglects or fails to comply with, or who resists the enforcement of, any of the provisions of this chapter or any of the terms and conditions of any permit, regulation, or lawful order of the Zoning Administrator made under the authority of this chapter shall be guilty of a simple misdemeanor and a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.

155.23 INTERPRETATION.

1. All references in this chapter to the Zoning Ordinance or Zoning Code or any zoning districts shall be deemed to refer to Chapter 165 of this Code of Ordinances and the various districts established thereunder.

2. Any sign or sign structure which is subject to the provisions of this chapter shall not be subject to the zoning permit requirement or other provisions of Chapter 165 of Code of Ordinances except as otherwise provided in this chapter. Signs and sign structures which are exempted from the provisions of this chapter as provided in Section 155.04 shall also be exempt from the provisions of Chapter 165 except as may be otherwise provided in this chapter.

[The next page is 825]
CHAPTER 156

EROSION CONTROL

156.01 EROSION CONTROL. The owner of property on which the top soil or vegetation growth has been disturbed by reason of development activity or other cause shall be responsible for erosion control. A property owner shall take steps to prevent soil runoff from such property including, when reasonably necessary to prevent harm to public or other private property, the placement of siltation fences, berms, sediment basins, mulch or other control devices.

(Ord. 533 - Mar. 02 Supp.)
CHAPTER 157

OUTDOOR FURNACES

157.01 TITLE. This chapter shall be known and may be cited and referred to as the “Outdoor Furnace Ordinance” of the City of Waukon, Iowa.

157.02 PURPOSE. The Council finds that odors and emissions resulting from the use of outdoor furnaces can be detrimental to public health and deprive neighboring residents of the enjoyment of their property. The purpose of this chapter is to establish and impose restrictions on the installation, construction and operation of outdoor furnaces within the City in order to secure and promote public health, comfort, convenience, safety and welfare.

157.03 DEFINITIONS. For purposes of this chapter, unless the context otherwise requires, the following definitions shall apply:

1. “Lot” means a zoning lot as defined in Chapter 165 of this Code of Ordinances.

2. “Lot line” means a front lot line, side lot line or rear lot line as defined in Chapter 165 of this Code of Ordinances.

3. “Outdoor furnace” means any equipment, device or apparatus which is installed, affixed or situated outdoors or within another structure for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat or hot water to any other structure.

4. “Stack” or “Chimney” means any vertical structure enclosing a flue or flues that carry off smoke, exhaust and other emissions from an outdoor furnace.

5. “Zoning Administrator” means the Zoning Administrator as defined in Chapter 165 of this Code of Ordinances.

157.04 PERMIT REQUIRED. Except as provided in Section 157.05, no person shall cause, allow or maintain the use of an outdoor furnace or install, construct or relocate an outdoor furnace within the City without first having obtained an outdoor furnace permit from the Zoning Administrator, or cause,
allow or maintain the use of an outdoor furnace after the expiration or revocation of any permit issued for such outdoor furnace. A permit shall be valid only for a specific outdoor furnace at a specific location and shall automatically expire if use of the outdoor furnace ceases for a continuous period of two years or more. A permit is transferable to subsequent owners of the lot on which the outdoor furnace is located.

157.05 EXISTING OUTDOOR FURNACES. Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain, subject to the following requirements:

1. Permit Requirement. The owner of any outdoor furnace in existence on the effective date of this chapter shall apply for and receive an outdoor furnace permit from the Zoning Administrator within six months of such effective date. If a permit is not received for an existing outdoor furnace within six months from the effective date of this chapter the outdoor furnace shall be removed.

2. Temporary Exemption. Outdoor furnaces in existence on the effective date of this chapter shall be exempt from the provisions of this chapter for a maximum period of six months from the effective date. After six months all provisions shall be applicable except as provided in subsection 3, below. In order to obtain a permit for an existing outdoor furnace, the furnace must be in compliance with all the provisions of this chapter and all provisions shall continue to apply to an outdoor furnace after a permit has been issued for it, except as provided in subsection 3, below.

3. Setback Exemption. The provisions of subsection 2 of Section 157.06 of this chapter shall not apply to any outdoor furnace in existence on the effective date of this chapter; provided, however, that no existing furnace shall thereafter be moved to or replaced by a new furnace at any location which is not in compliance with the setback requirement.

4. Definition. “Existing” or “in existence” means the outdoor furnace is in place on a lot.

157.06 SPECIFIC REQUIREMENTS. Except as provided by Section 157.05, all outdoor furnaces shall comply with the following rules and regulations:

1. Manufacturer’s Instructions. All outdoor furnaces shall be installed, operated and maintained in accordance with the manufacturer’s instructions.
2. Setbacks. Outdoor furnaces shall not be located less than forty (40) feet from the nearest lot line.

3. Permitted Fuel. Only firewood, untreated lumber, fossil fuels, corn and biomass products (excluding leaves and other yard waste) are permitted to be burned in any outdoor furnace. Burning of any and all other materials is prohibited. No outdoor furnace shall be utilized as a waste incinerator.

4. Months of Operation. Outdoor furnaces shall not be operated during the months of June, July and August.

5. Starting. Petroleum products and chemicals shall not be used to start an outdoor furnace.

6. Stack Requirements. Every outdoor furnace shall be equipped with a stack or chimney through which passes all smoke and other emissions produced by the furnace. All stacks must be so constructed as to withstand high winds and other weather elements. Stack height shall be in accordance with the following:
   
   A. If located 100 feet or less from any residence or other occupied structure not served by the outdoor furnace, the stack must extend to at least two feet above the eave line of that structure.

   B. If located more than 100 feet but not more than 250 feet from any residence or other occupied structure not served by the outdoor furnace, the stack must extend to at least 75% of the height of the eave line of that structure.

   C. In no event shall a stack extend less than 8 feet above the ground.

7. Compliance with Other Regulations. All outdoor furnaces shall also comply with any other applicable county, state or federal regulations.

157.07 PERMIT APPLICATION AND ISSUANCE.

1. Applications. An application for an outdoor furnace permit shall be made to the Zoning Administrator on a form provided by the City and shall contain and have attached thereto the following information:
   
   A. Name, address and telephone number of the applicant.

   B. Address of the lot upon which the outdoor furnace is to be installed or constructed.
C. A site plan indicating the proposed location of the outdoor furnace in relation to all lot lines and structure located within 250 feet.

D. The name of the manufacturer and model number for the outdoor furnace, together with a copy of the manufacturer’s installation, operation and maintenance instructions.

E. A description of the stack or chimney proposed to be used in connection with the outdoor furnace, including its height and a description of any guy wires or other devices to be used to support or stabilize the stack.

F. Such other information as the Zoning Administrator shall require to show full compliance with this chapter and all other ordinances of the City.

2. Permit Fee. The applicant shall file with the outdoor furnace permit application an administration and inspection fee in the amount of $35.00 which shall be deposited in the City's general fund.

3. Applicant. The applicant for an outdoor furnace permit shall in all cases be the owner of the lot on which the outdoor furnace is to be located.

4. Time; Rejections. The Zoning Administrator shall issue an outdoor furnace permit or deny an outdoor furnace application within 10 days after receipt of an application, provided that the required information is contained in the application and the other conditions set forth in this section have been satisfied by the applicant. The Zoning Administrator shall deny any application which is not filed in conformity with this section or which proposes an outdoor furnace which would be contrary to the provisions of this chapter. Any denial of an application shall be given in writing with the reasons for such denial stated thereon. If an application is denied, the permit fee shall be refunded to the applicant.

5. Issuance. An outdoor furnace permit shall be issued by the Zoning Administrator when the application and the investigation thereof indicate compliance by the applicant with all of the provisions of this chapter and all other applicable laws. The permit shall specify the minimum stack or chimney height that must be used in connection with the outdoor furnace.

6. Records. A careful record of all permit applications and permits shall be maintained by the Zoning Administrator.
157.08 ENFORCEMENT AND VIOLATIONS.

1. It is the duty of the Zoning Administrator, with the aid of the Police Department and the City Attorney, to enforce the provisions of this chapter. The Zoning Administrator shall promptly report all violations to the City Attorney and the Mayor.

2. Any person who violates, disobeys, neglects or fails to comply with, or who resists the enforcement of, any of the provisions of this chapter or any of the terms and conditions of any permit, regulation, or lawful order of the Zoning Administrator made under the authority of this chapter shall be guilty of a simple misdemeanor and a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.

3. If any outdoor furnace regulated under this chapter is installed, constructed, moved, maintained or used in violation of this chapter or in violation of the terms and conditions of any permit or regulations issued or made under the authority of this chapter, the City Attorney, at the direction of the Council, shall, in addition to other remedies, institute any appropriate action or proceedings in any court to prevent such unlawful installation, construction, movement, maintenance or use, to restrain, correct or abate such violation, or to prevent any illegal act, conduct, business, or use relating to such outdoor furnace.

(Ord. 619 - Dec. 06 Supp.)
# CHAPTER 165

## ZONING REGULATIONS

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165.33 Warning and Disclaimer of Liability

165.34 Floodplain Management Ordinance

### 165.01 TITLE. This chapter shall be known and may be cited and referred to as the “Zoning Ordinance” of the City of Waukon, Iowa.

### 165.02 PURPOSE AND INTENT. The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this community. It is the general intent of this chapter to regulate and restrict the use of structures, lands and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of structures so as to: lessen congestion and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; provide notification and protection to property owners concerning proposed development near their property; and implement the community’s comprehensive plan or plan components. It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

### 165.03 AUTHORITY. These regulations are adopted pursuant to the authorization contained in Chapter 414 of the Iowa Code, as amended, and said Chapter of the Iowa Code and its future amendments are hereby adopted.
165.04 COMPLIANCE. The use or development of any land or water, a change or alteration in the use of any land or water, and the use, change of use, alteration, construction, reconstruction, remodeling, expansion or movement of any structure within the areas to be regulated by this chapter shall be in compliance with the terms of this chapter and other applicable local, State, and Federal regulations.

165.05 DEFINITIONS. In the construction of this chapter the definitions contained in this section shall be applied, except when the context clearly indicates otherwise. As used in this chapter, the word “lot” includes the words “piece”, “plots”, “premises”, and “parcel”; the word “building” includes all other structures of every kind regardless of similarity to buildings; and the phrase “used for” includes the phrases “arranged for”, “designed for”, “maintained for”, and “occupied for”. The words “he” and “his” shall also include the female gender. The following terms are also defined for use in this chapter:

1. “Accessory building or use” means any building, use or activity which is conducted or located on the premises of the principal use served, clearly incidental to, subordinate in purpose to, and clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of an occupant, employee, customer, or visitor of or to the principal use. An accessory use shall not have the effect of establishing a use or structure not permitted in the zoning district it is in. Any accessory building shall not be built before the principal building or use on a lot. An accessory building or use shall not be larger than the principal building or use except in the Agricultural District and “R-1” District where accessory buildings can be larger than the principal use but shall be approved individually under the conditional use provisions of this chapter.

2. “Agriculture” means the use of land and structures for agricultural purposes, including farming, pasturage, livestock and poultry raising, horticulture, floriculture, and the necessary accessory uses for packing, treatment, or storing raw produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Agriculture does not include commercial feed lots for the confined feeding of any animals.

3. “Alley” means a public or private right-of-way primarily designated to serve as secondary access to the side or rear of those properties whose principal frontage and access is on a street.

4. “Automobile salvage yard” — See: “Junk or salvage yard.”

5. “Bed & Breakfast establishment” means any place of lodging that provides five (5) or fewer rooms for rent, is the owner’s personal residence and
is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast. Guests shall not exceed seven (7) consecutive days of occupancy. A bed and breakfast establishment is not considered a motel or a home occupation.

6. “Block” means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, and municipal boundary lines.

7. “Board” or “Board of Adjustment” means the administrative agency established pursuant to this chapter.

8. “Boulevard” means the space between a sidewalk (or the lot line or street right-of-way line in the absence of a sidewalk) and the street curb (or the traveled portion of the street in the absence of a curb).

9. “Building” means any structure built, used, designed, or intended for the support, shelter, protection, or enclosure of persons, animals, or property of any kind, and which is permanently or temporarily affixed to the land. When a building is divided into separate parts, by party walls without windows, doors or other openings, each part may be deemed by the Zoning Administrator as a separate building. There shall not be more than one principal building on one lot except as provided in Section 165.07(9).

10. “Commission” means the Planning and Zoning Commission of the City.

11. “Condominium” means individual ownership of each housing unit in a multi-unit housing structure with or without common property or a home-owners association.

12. “Convalescent home” or “rest home” or “nursing home” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, not including the mentally ill or inebriate or persons afflicted with contagious diseases.

13. “Day care center” means a family residence or any other building in which the owner or lessee operates as a business a service involving the care and supervision of children unaccompanied by parent or guardian for periods of less than 24 hours per day.

14. “Dwelling” means a building, or portion thereof, intended to be used for residential purposes. A dwelling may contain one or more dwelling units. References in the district regulations to "single family dwellings", "two family dwellings" and "multiple family dwellings" shall
mean the number of dwelling units which may be located on a single zoning lot.  

(Ord. 526 - Mar. 02 Supp.)

15. “Dwelling unit” means a house, apartment, group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not share living facilities with any other persons in the structure and which quarters have direct access from the outside of the building or through a common hall. No more than one family shall occupy a single dwelling unit.  

(Ord. 526 - Mar. 02 Supp.)

16. “Family” means a person living alone, or any number of persons living together as a single dwelling unit sharing common living, sleeping, cooking and eating facilities.  

(Ord. 786 - Nov. 19 Supp.)

17. “Family home” or “group home” means a community-based residential home which is licensed or certified by the State of Iowa as one of the following: a residential care facility under Iowa Code Chapter 135C, a child foster care facility under Iowa Code Chapter 237, or a supported community living facility under 441 IAC Chapter 77 of the Iowa Administrative Code, which provides room and board, personal care, habilitation services and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. However, a family home does not mean an individual foster care family home licensed under Chapter 237 or a halfway house.  

(Ord. 569 – Dec. 03 Supp.)

18. “Farmers’ market” means an area designated by the Council to be used by producers of farm products for sale of such products.

19. “Frontage” means all the property abutting upon one side of a street measured along the right-of-way line.

20. “Garden plot” means a parcel used for the growing of vegetables, flowers, etc., used for human consumption, but not for commercial sale.

21. “Gasoline service station” means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles and other items customarily associated with the sale of such products, for the rendering of services to motor vehicles and the making of minor repairs. Gasoline service stations do not include body shops, the sale or storage of junk vehicles, or premises offering major automobile repairs, automobile wrecking, automobile sales or automobile laundries.

22. “Grade” means the average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.
23. “Halfway house” or “rehabilitation center” or “home for adjustment” means a use providing board and room, recreational, counseling, and other rehabilitative services to individuals, of either sex, who by reason of substance abuse, conviction of violations of law, or societal adjustment problems require specialized attention and care in order to achieve personal independence. Individuals participating in a work release or similar program from a state institution, and under the supervision of a county, state or local agency, are included within this definition.

24. “Height of building or structure” — See the “building height” illustration in the Appendix to this Code of Ordinances for methods of measuring building height. Also, see Section 165.06 for exceptions to height limits.

25. “Home occupation” means any occupation, profession or other business conducted on a lot, the principal use of which is residential, by any of the following persons:

A. A person who resides on the lot; or

B. A person who does not reside on the lot and who is a direct descendant or the spouse of a direct descendant of the person who established and first conducted the business at such location (the “founder”); provided that there have been no periods in excess of two years in length during which the business has not been continuously conducted on the lot since it was first established by the founder; and further provided that the principal use of the lot at all times continues to be residential use by the founder, the surviving spouse of the founder, any direct descendant of the founder, or the surviving spouse of any direct descendant of the founder; and which business, occupation or profession is or will be conducted in accordance with all of the following restrictions and conditions:

(1) such use is incidental to the residential use of the lot;

(2) Such use does not effect any substantial change in the external appearance or arrangement of any building or in the character of the neighborhood;

(3) Not more than one person who does not reside on the lot is employed in such use;

(4) No substantial amount of stock in trade is kept or sold on the lot;
(5) Not more than 50% of the floor area of one story of a dwelling on the lot is occupied by or devoted to such use;

(6) There is no display or advertising of merchandise or services outside of any structure on the lot except for an identification sign not exceeding two (2) square feet in size;

(7) Such use does not occupy or involve any accessory buildings on the lot, except accessory buildings in existence prior to the commencement of such use which were not constructed or placed on the lot in anticipation of such use; and

(8) Such use does not create any obnoxious side effects or other conditions significantly in conflict with the residential character of an area, such as smoke, gas, or dust emission; unusual water usage so as to cause water service problems in the area; discharge of troublesome pollutants to the sewer system; electrical or electronic interference; vehicular traffic in excess of what is normal in the area; or visible exterior structural components or mechanical fixtures which are not customarily present in a residential neighborhood.

The following activities or businesses are not allowed as home occupations: retail sales of merchandise; rental, repair or painting of trailers, vehicles or implements; restaurants; clinics; manufacture or reloading of fire arms shells; food processing; repair of television, radio or electronic equipment; private schools; kennels; or any kind of commercial animal care activity, except the grooming of household pets. As a general standard, permitted home occupations do not include the presence of bulk supplies of explosive, combustible, toxic or biological chemicals or materials which are a principal part of such business or activity and which are always present on the premises. “Home occupation” may include the use by a professional person of his or her home for consultation, emergency treatment or religious activities. A hobby is not considered a business or occupation.

26. “Hotel” means an establishment which is open to transient guests, as compared to a boarding, rooming or lodging house, and is commonly known as a hotel in the community in which it is located; and which
provides customary hotel services such as maid service, the furnishing and laundering of linens, telephone and secretarial or desk service.

27. “Junk (or salvage) yard” means an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junk or salvage yard” includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings. A junk yard shall be enclosed by a continuous solid fence at least eight (8) feet high.

28. “Loading space” means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, and abutting on or affording direct access to a public street or alley, for the temporary parking of a commercial vehicle while loading or unloading cargo. No part of any public street or right-of-way shall be a part of or used as loading space.

29. “Lot” means a parcel of land which is either a “lot of official record” or a “zoning lot.” Unless otherwise specified or required by the context, “lot,” as used in this chapter, means “zoning lot.”

30. “Lot of official record” means (1) A parcel of land identified and described in a plat recorded in the office of the Allamakee County Recorder; or (2) a parcel of land, including a portion of a platted parcel, which is described by metes and bounds or by any means other than a plat parcel designation and which has been conveyed by means of a recorded conveyance document which sets forth such description.

31. “Lot area” means the area of a horizontal plane bounded by the front, side, and rear lot lines.

32. “Lot depth” means the mean horizontal distance between the front lot line and the rear lot lines of a lot, measured within the lot boundaries. See the “lot depth” illustration in the Appendix to this Code of Ordinances.

33. “Lot line, front” means the boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public way. In the case of a land-locked or partially land-locked lot, the front lot line shall be that lot line that faces the access to the lot. In the case of corner lots, both (or all) lot lines bordering public streets are front lot lines. Where the actual boundary of a lot extends into a public street easement, the front lot line for purposes of this chapter is the boundary of the easement.
34. “Lot line, rear” means the boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line. However, corner lots shall not have any rear lot lines.

35. “Lot line, side” means any boundary of a lot which is not a front line or a rear lot line. However, for corner lots, any boundary which is not a front lot line shall be a side lot line.

36. “Lot width” means the horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first 30 feet of lot depth immediately in back of the front yards setback line. See the “lot width” illustration in the Appendix to this Code of Ordinances.

37. “Lot, corner” means a lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street two (2) chords of which form an angle of one hundred twenty (120) degrees or less measured on the lot side.

38. “Lot, double frontage” means a lot having frontage on two (2) non-intersecting streets as distinguished from a corner lot.

39. “Lot, interior” means any lot which is not a corner lot or a double frontage lot.

40. “Lot, zoning” means a single tract of land, under common ownership and/or legal control, used as a unit or designated in a zoning permit application to be used, developed or built upon as a unit. A zoning lot may be composed of all or part of one or more lots of official record all with the same zoning classification and under common ownership and/or legal control. A zoning lot shall be large enough to meet the various yard, area and frontage requirements of this chapter.

41. “Mobile home” means a housing unit built and assembled in a factory and transported to its residential parcel as a whole unit or in modular units. Mobile homes converted to real estate under Iowa law and fixed to a permanent, frost-free foundation are treated under this chapter in the same manner as other conventional, site-built family dwellings. Mobile homes which are not converted to real estate and fixed to permanent, frost-free foundations shall be located only in mobile home parks of the R-5 zoning district; provided, however, mobile homes not in use for residential purposes may be parked for purposes of inspection, display, and sale at automobile or mobile home sales lots. No business shall be conducted in its entirety out of a mobile home except for conditional uses specified for the R-5 zoning district and except for
temporary offices. “Mobile home” includes “manufactured homes” as defined in Iowa Code Chapter 414.28.  

(Ord. 547 - Mar. 02 Supp.)

42. “Mobile home park” means a lot designed, maintained, or intended for the purpose of supplying a long term location or accommodations for two or more mobile homes, and includes all buildings or equipment used or intended for use by mobile home park residents. Mobile homes in mobile home parks which are converted to real estate under Iowa law must meet the same zoning standards as conventional, site-built dwellings. “Mobile home park” does not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for the purpose of inspection, display, and sale.

43. “Motel” means a combination or group of two (2) or more detached, semi-detached or connected permanent dwellings located on the same lot and used as a unit to furnish overnight transient living accommodations. A motel may include the permanent residence of the owner or manager of the motel.

44. “Person” means any individual, firm, association, corporation or body politic and includes any receiver, assignee, agent or similar representative thereof.

45. “Planned Development District” means a special zoning district for a parcel of land or contiguous parcels of land of a size sufficient to create its own environment, controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent or planned land uses and zoning districts and which allows compatible mixed land uses. The developer or developers may be granted relief from specific land use regulations and zoning standards and may be granted certain concessions in return for assurances of an overall quality of development, including any specific features which will be of exceptional benefit to the community as a whole. Such development may be allowed within one zoning district without the need to divide the development into several zoning districts. A planned development district requires a comprehensive site development plan before application may be made to rezone land to this district.

46. “Professional office” means the office of a doctor, dentist, chiropractor, minister, architect, landscape architect, professional engineer, accountant, lawyer, author, musician, or other recognized professional. Also see: “Home occupation.”

47. “Rehabilitation center” — See “halfway house.”
48. “Rest home” — See “convalescent home.”

49. “Setback” means the required minimum distance on a lot between every structure on the lot, including accessory buildings, and the front, side or rear lot lines. Where a front lot line is established, for purposes of this chapter, by reference to the boundary of a public street easement, as provided in the definition of “front lot line”, the applicable setback shall be measured from the easement boundary.

50. “Setback line” means a line within a zoning lot parallel to a front, rear or side lot line of the lot at a distance established by the yard setback requirement applicable to a lot in the zoning district in which the lot is located. A setback line establishes the interior boundary of a required yard and shall be either a front yard, rear yard or side yard setback line. Corner lots shall have no rear yard setback lines and all corner lot setback lines which are not front yard setback lines shall be side yard setback lines.

51. “Shopping center” means a retail center consisting of two or more separately owned retail businesses located in one or more structures where either all structures are under common ownership or areas used in common by the businesses, such as parking or access to public streets, are under common ownership.

52. “Sign” — See City Sign Ordinance (Chapter 155 of this Code of Ordinances).

53. “Story” means that part of a building between any floor and the floor next above, and if there be no floor above, then the ceiling above. A basement is a story if its ceiling is six (6) feet or more above the level from which the height of the building is measured, or if it is used for business purposes or if it contains any dwelling units other than one (1) dwelling unit for the caretaker of the premises.

54. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

55. “Street” means all public rights-of-way, including streets, avenues, roads, alleys, highways and public road easements, in the City. This term includes all areas between the adjoining property lines. In cases where a street is created by easement only, the term includes the
entire width of the easement. However, an alley shall not be deemed a street unless it is the only means of access to a lot.

56. “Structure” means anything constructed, erected or excavated regardless of the place of construction, the use of which requires that it be permanently or temporarily affixed to or placed upon or in the ground or upon or in another structure. However, “structure” does not include sidewalks, driveways, street paving, ground level patios, vegetation or other customary yard ornaments, utility lines and related facilities, mobile homes located in mobile home parks of the R-5 zoning district and outdoor furnaces for which outdoor furnace permits have been issued pursuant to Chapter 157 of this Code of Ordinances. (Ord. 627 – Dec. 07 Supp.)

57. “Trailer” means a movable or portable unit designed to be towed on its own chassis which is not designed for permanent or long-term residence. No business in its entirety shall be conducted out of a trailer except when used as a temporary office.

58. “Truck garden” or “truck farm” means a farm devoted to the production of and sale of unprocessed vegetables or other field products for human consumption.

59. “Use” means a purpose or activity for which a lot or a structure thereon is designed, arranged, or intended, or for which it is occupied or maintained.

60. “Use, accessory” — See “accessory use.”

61. “Use, principal” means the main use of a lot or of the principal structure thereon as distinguished from a subordinate or accessory use. A “principal use” may be a “permitted use” or a “conditional use.”

62. “Utilities” means any public or private water supply, waste collection and/or disposal system, including but not limited to septic systems, public sewage collection system and treatment facilities, gas, electrical, or television cable system, and associated utility structures and facilities.

63. “Vision clearance triangle” means a triangular space at the street corner of a corner lot which is bounded by the street right-of-way lines and a line connecting two (2) points on said street lines measured 20 feet back from the point of intersection. For purposes of vision clearance triangle regulations under this chapter, a public alley shall be deemed to be a street.

64. “Yard” means a minimum open area required for a zoning lot, extending along all lot lines to the depth specified in the setback requirements applicable to a lot in the zoning district in which the lot is located. A yard must be unoccupied and unobstructed by buildings or other structures from its lowest level to the sky, except as provided in
subsection 165.06(2). No part of a yard in one lot shall be considered to be part of a yard in another lot. A yard shall be either a front yard, a side yard or a rear yard.

65. “Yard, front” means a yard extending, in width, between the side lot lines and extending, in depth, between the front lot line and the front yard setback line. Front yards are illustrated in the Appendix to this Code of Ordinances.

66. “Yard, rear” means a yard extending, in width, between the side lot lines and extending, in depth, between the rear lot line and the rear yard setback line. Corner lots shall have no rear yards. Rear yards are illustrated in the Appendix to this Code of Ordinances.

67. “Yard, side” means a yard extending, in width, between the front yard setback line and the rear yard setback line and extending, in depth, between the side lot line and the side yard setback line. However, corner lots shall have no rear yards and all corner lot yards which are not front yards shall be side yards. Side yards are illustrated in the Appendix to this Code of Ordinances.

68. “Zero lot line development” means a housing development style intended to provide an opportunity for lower-cost single family housing ownership use meeting the following minimum standards: Each housing unit has its own subdivided and deeded lot; minimum lot area for each housing unit is 5000 sq. ft.; minimum lot frontage is 60 feet or 80 feet for corner lots; and not over 35 ft. high or 2½ stories. Front yard setback requirements shall be the same as the zoning district in which such unit is located. The side yard setback may be zero (0) for a single family unit on one side of the lot provided that the lot abutting the zero (0) side yard setback is held under the same ownership at the time of initial building construction. When the zero (0) foot setback provision is utilized, the setback must be zero. Setbacks greater than 0 feet and less than 12 feet are not permitted. The opposite (to the zero setback) side yard setback shall be a minimum of 12 feet. No more than two zero lot line units may be abutting each other on the same lot line provided each unit is constructed under a single ownership. No more than five such units may be constructed within every four hundred (400) feet of continuous block length. Any side yard setback abutting a lot under different ownership shall be a minimum of 12 feet. Zero lot line developments shall be parallel to a public street so that the lot for each housing unit has frontage on the street and no housing unit is located to the rear of another housing unit. The Board of Adjustment may attach any additional conditions to
zero lot line development as authorized under section 165.10 of this chapter.

69. “Zoning Administrator” means the officer designated by the Council as the officer responsible for enforcing and administering all requirements of this chapter.

70. “Zoning districts” means all zoning districts established by this chapter as shown in the City’s Official Zoning Map, which is incorporated herein by reference thereto. Zoning districts apply to all lands in the City except public right-of-ways.

71. “Zoning map” or “official zoning map” means the scaled map designating zoning district boundaries within the City of Waukon adopted by reference in Ordinance No. 465 on March 16, 1998, on file in the office of the Clerk, as amended from time to time thereafter.

72. “Zoning permit” means the written authorization issued by the Zoning Administrator to an applicant permitting the applicant to proceed with the erection, construction, alteration, enlargement, extension, reconstruction or moving of any building or structure or portion thereof, including the excavation of a basement for a structure, or the use of a lot or a structure thereon, and certifying that the applicant’s plans and proposed use comply with all applicable provisions of this chapter and that all other preliminary requirements, including the issuance of any other necessary permits, approvals or variances, have been satisfied.

165.06 EXCEPTIONS AND MODIFICATIONS. The regulations specified in this chapter shall be subject to the following exceptions and modifications:

1. Structures Permitted Above Height Limit. The building height limitations of this chapter shall be modified as follows:

A. Chimneys, cooling towers, elevators bulkheads, fire towers, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, water towers, silos, spires and radio or television towers, or necessary mechanical appurtenances shall not be subject to the height limitations established in Sections 165.14 through 165.24 of this chapter.

B. Public, semi-public or public service buildings, hospitals, sanitariums or schools, when permitted in a district, may be erected to a height not exceeding forty (40) feet, and churches and
temples, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, if the building is set back from each property line at least two (2) feet for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.

2. Yard and Setback Requirements.

A. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for the ordinary projections of skylights, patio fixtures, sills, belt courses, fire escapes, cornices and ornamental features, and steps or handicapped ramps leading to a building entrance.

B. An existing open porch within a required yard may be remodeled or rebuilt to an enclosed non-habitable vestibule entrance-way (which may include closet space) when projecting not more than one-fourth (¼) of the width of the residence.

C. Structures permitted within required yards:

1. Fences, subject to the provisions of Section 165.07(12).

2. Telephone, telegraph and power transmission and distribution towers, poles and lines, transformers, and similar necessary appurtenances and portable equipment housings that are removable in their entirety. Additions to and replacements of all such structures may be made, provided the owner will file with the Clerk an agreement in writing to the effect that the owner will move or remove all new construction, additions and replacements erected after the effective date of this chapter at the owner’s expense when necessary for the improvement of a public street.

3. Underground structures, not capable of being used as foundations for future prohibited overground structures.

4. Access or frontage roads.

5. Signs as permitted under the Sign Ordinance.

6. Ornamental trees and shrubs except in required vision clearance triangle.
(7) Field crops, except within required vision clearance triangle, if permitted under the applicable zoning district regulations.

(8) Accessory buildings or structures in rear yards if and to the extent permitted under the applicable zoning district regulations.

### 165.07 GENERAL REGULATIONS AND PROVISIONS.

1. Except as hereinafter provided, no structure or premises shall hereafter be used, and no structure shall be extended, erected, converted, moved, rebuilt, or altered except in conformity with all the district regulations established by this chapter for the district in which it is or will be located and, if the cost or value of the construction or alteration is $500.00 or more, until a zoning permit has been secured from the Zoning Administrator as provided herein.

2. The principal use on a lot and the lot itself shall have access to a public street.

3. No structure in the rear of any principal building on the same interior lot shall be used for residence purposes.

4. Not more than one (1) principal permitted use is permitted on an undivided quarter-quarter section of land or lot of record until the same has been subdivided according to the Iowa Code and the ordinances of the City into a separate lot of record for each principal use. This requirement does not apply to farm dwellings provided for in the agricultural zoning district.

5. No lot shall hereafter be so reduced in size that any required yard or other open space, or lot width or area, will be smaller than is prescribed in this chapter for the district in which it is located.

6. No zoning lot in any residence district shall be hereafter platted or reduced in size so as to have a street frontage of less than sixty (60) feet, except for “zero-lot line” development.

7. No yard or other open space on one lot shall be considered as providing a yard or open space for any other lot, and no yards or other open space about an existing structure or any structure hereafter constructed shall be considered as providing a yard or open space for any other structure.

8. If actual construction has been started on any structure pursuant to a permit at the effective date of this chapter, or any amendment thereto,
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nothing contained herein shall require any change in the plans, construction or designated use of any structure or part thereof.

9. Every building hereafter erected, converted, moved, enlarged or structurally altered shall be located on a zoning lot and there shall not be more than one principal building or use on one zoning lot, except that the Council may authorize more than one principal building or use on one lot after review and recommendation by the Commission.

10. One-family dwellings shall have a minimum gross floor area of 900 square feet per unit, except mobile homes may have a minimum of 720 square feet per unit.

11. Mobile homes shall be located only within mobile home parks (“R-5” District) and in an Agricultural District.

12. Fences, walls, trees and shrubs which interfere with traffic visibility shall not be permitted within vision clearance triangles, except in a “B-1” District. Fences and walls not prohibited above are permitted in a required side or front yard provided such fence or wall, other than a retaining wall, shall not be higher than six (6) feet, measured from ground level, unless any part above such height has at least fifty percent (50%) of the surface uniformly open and unobstructed; provided, however, that the 6-foot limitation does not apply to fences on or adjacent to side lot lines if the adjoining lot is not in a residential zoning district. Fences not prohibited above having a height of ten (10) feet or less measured from ground level may be located within a required yard.

13. No statuary, memorial, or work of art in a public place, and no public building, bridge, or public structure, 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 the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained. Such requirement for recommendations shall not act as a stay upon action for any such improvement where the Commission, after thirty (30) days’ written notice requesting such recommendations, shall have failed to file the same with the Council.

14. Any structure which has been damaged by fire, explosion, act of God, or the public enemy or left to deteriorate to the extent of more than fifty percent (50%) of its value, shall be restored or the property shall be leveled to the grade as prescribed by the City within six (6) months.
15. If construction of a structure is started and then abandoned for a period of two (2) years, the property shall be returned to its original condition. If the property owner fails to comply with this subsection, the work will be done by the City and the cost shall be assessed to the property.

16. All minimum setback requirements shall be applicable to principal and accessory buildings and structures and no accessory building or structure shall occupy any part of a required yard, except for accessory buildings or structures in rear yards if and to the extent permitted under the applicable zoning district regulations.

17. All provisions contained in the definitions set forth in section 165.05 of this chapter which are regulatory in nature are substantive and enforceable regulations under this chapter.

18. Except as provided in this subsection, the issuance of a zoning permit under this chapter for the construction of a new principal building or structure imposes on the owner of the lot for which the permit was issued a duty to repair, replace or reconstruct any defective public sidewalks abutting said lot or, if no sidewalk exists, to construct public sidewalks abutting the lot, all in accordance with the regulations and standards of Chapter 136 of this Code. At the time the zoning permit is issued, the Zoning Administrator shall inspect any existing abutting sidewalks and shall inform the owner or the owner’s agent, in writing, of any sidewalk work required. The required sidewalk work shall be completed within one year after the zoning permit is issued and a certificate of compliance shall not be issued until the required sidewalk work is satisfactorily completed unless a waiver is granted. Upon the owner’s application, the Council may grant a renewable, five-year waiver of the requirements of this subsection for lots located in agricultural (“A”), conservancy (“C”), general business (“B-2”) and manufacturing (“M-1”) zoning districts if it reasonably appears that pedestrian traffic utilizing such sidewalks would be insignificant. The owner or any successor shall complete the required sidewalk work within one year from the expiration of such a temporary waiver. The Council may also grant permanent waivers of these requirements for any lot where topographical conditions render sidewalk construction unfeasible. The requirements of this subsection shall not apply to zoning permits issued for accessory buildings or for the alteration or enlargement of any building or structure.  

(Ord. 476 - Oct. 98 Supp)
165.08 OFF STREET PARKING REQUIREMENTS.

1. Similar Uses. For uses not specifically mentioned in this section, the parking requirement shall be the same as the closest similar use which is mentioned herein. In the event the closest similar use is substantially different from the specified use, the Zoning Administrator shall determine the parking requirements.

2. Required Spaces. The following off-street parking spaces shall be required:

   A. Ice and roller skating rinks, bowling alleys, recreation centers, private clubs, lodges, pool halls — 1 space for each 100 square feet of floor area.
   B. Restaurants, night clubs, taverns, dance halls, golf clubhouses — 1 space for each 65 square feet.
   C. Drive-in restaurants — 20 spaces plus 5 spaces for each person employed to serve such customers.
   D. Dwellings, single and two family — 2 spaces per dwelling unit.
   E. Dwellings, multiple — 2 spaces per dwelling unit.
   F. Household equipment sales such as furniture, appliances, garden, green houses, plumbing and lighting and auto supplies — 1 space for each 300 square feet.
   G. Department stores, discount stores, retail stores such as grocery, drug, shoes, clothing, candy, gift, jewelry, hardware — 1 space for each 175 square feet.
   H. Hospitals — 1 space for each licensed patient bed.
   I. Medical and dental clinics and offices — 1 space for each 150 square feet.
   J. Nursing homes — 1 space for each 1½ beds.
   K. Hotels — 1¼ spaces for each room.
   L. Motels — 1¼ spaces for each room.
   M. Theaters with fixed seats — 1 space for each 3.5 seats.
   N. Elementary and day care schools — 2 spaces per classroom, or designated class area.
O. Junior high or middle school — 2 spaces per classroom plus 1 space for each four (4) permanent seats in the largest place of assembly.

P. Senior high school — 1 space for each four (4) permanent seats in the largest place of assembly; plus 1 space for each 200 square feet of gross office area.

Q. Auditorium, coliseum, stadium, sports arena, convention centers:
   (1) facility or part thereof without fixed seats — 1 space for each 60 square feet;
   (2) facility or part thereof with fixed seats — 1 space for each 5 seats, plus 1 space for each 4 employees.

R. Industrial, wholesale and warehouse — one space per 1,000 square feet of gross floor area used for warehousing and distribution, plus two spaces per 1,000 square feet of gross floor area used for manufacturing, plus 2.5 spaces per 1,000 square feet of office floor area.

S. Motor vehicle, marine, implement, and trailer sales and repairs — 1 space per 400 square feet, such spaces to be available for customers and employee parking only.

T. Financial, business, professional office, not including clinics, and doctor and dental offices — 1 space for each 150 square feet.

U. Churches, synagogues — 1 space for each 4 seats; if benches, 20 inches shall be 1 seat.

V. Funeral homes and mortuaries — 1 parking space for each 4 seats.

W. Businesses which are mostly repair services — 1 space for each 300 square feet.

X. Gas and service station — 2 spaces for each service bay, each space to be in addition to gas pump service area.

Y. Laundromats — 1 space for each 2 machines.

Z. Office buildings, governmental administrative buildings — 1 space for each 200 square feet

AA. Trucking terminals and municipal garage and shop facilities — 1 space for each 700 square feet of floor area.
BB. Libraries, museums, post offices, senior centers, youth centers — 1 space for each 400 square feet.

CC. Group quarters; halfway houses or group homes — 1 space for each resident supervisor or family and 1 space for each 1,500 square feet of floor space.

DD. Barber and beauty shops — 1 space for each 80 square feet.

EE. Golf courses — 1 space per 2 acres.

FF. Miniature golf and driving ranges — 1 space per each practice or activity area including non—golf attractions.

GG. Fair, circus grounds and/or race track — required to be determined by the Board in acting on a conditional use permit application.

HH. Permitted home occupations — at least 2 spaces in addition to those used by the family, with such additional spaces to be available for customers at all times.

3. Development and Maintenance of Parking Lots. Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:

A. No vehicle parking shall be allowed within the required front or side yard of any permitted use in any “R” district except in driveways or garages, or in established parking areas which have been approved by the City for parking. In any residence district, no parking space shall be located closer to the front lot line than the main building on the same lot, unless such parking space is in a private or storage garage or in a standard driveway. In multiple residence zones the Council, following recommendation by the Commission, may approve site plans which vary from these requirements, provided parking spaces are shielded from the street by landscaping, hedges, decorative fences, or similar means.

B. Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any “R” district.

C. Any parking lot containing ten (10) or more spaces shall be hard surfaced with bituminous or portland cement concrete and shall be permanently screened with natural plant material,
screening fences or walls. Only those sides of a parking lot facing upon public streets or upon any “R” district lots are required to be screened. Screening shall be a minimum of two (2) feet and a maximum of six (6) feet high except adjacent to driveways or street intersections. Within ten (10) feet of a parking lot driveway or within twenty (20) feet of a street intersection, screening shall be less than two (2) feet high. If planting material is to be utilized, plants must be a minimum of twelve (12) inches high at the time of planting. Screening plans must accompany the parking lot plans at the time of zoning permit application.

D. An allowance of twenty-five percent (25%) of the total number of off-street parking spaces required may be identified, constructed, and used as compact car spaces. Compact spaces shall be conveniently located and provided with adequate above grade signage to identify the compact spaces and shall be identified as compact spaces only.

E. All 90º full-size parking spaces shall be a minimum of nine (9) feet wide and twenty (20) feet long exclusive of required driveways, access aisles, and turning space. All 90º compact car parking spaces shall be a minimum of seven and one-half feet (7'6") wide and fifteen feet (15’) long.

4. Off-Street Loading Spaces Required.

A. In any district, in connection with every building or part thereof hereafter erected, 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 plus additional loading spaces necessary to avoid problems with traffic or with adjacent property.

B. Each loading space shall not be less than ten (10) feet in width, and shall be long enough to adequately accommodate the type of vehicles expected to use such loading spaces.

C. Loading and unloading spaces for uses in all districts except the “B-1” district shall be located on the same lot as the use it serves with safe and convenient driveway access and maneuvering space, and such space shall be located or designed
so that no vehicle will encroach upon or obstruct any part of a public street while loading or unloading.

D. A loading space cannot be considered a parking space for purposes of meeting the off-street parking requirement of this section.

165.09 NONCONFORMING USES AND STRUCTURES.

1. Statement of Intent. Within the various districts established by this chapter or its amendments there exist structures and uses of land with or without structures which were lawful or vested uses prior to the adoption of this chapter or its amendments, but which would be prohibited, regulated or restricted under the provisions of this chapter. Such uses and structures are referred to as “nonconforming” uses and structures in this chapter. It is the intent of this chapter to permit these nonconformities to continue even though they are incompatible with the district in which they are located so long as provisions hereinafter set forth are complied with. However, it is the general intent to restrict nonconforming uses and structures and discourage indefinite prolongation of the life of nonconforming uses and structures so that ultimately conformance with this chapter will prevail.

2. Nonconforming Uses of Land. If a use of land upon which no building or structure is erected or constructed exists at the effective date of this chapter or any amendment hereto which was lawful under all laws, including zoning laws, in effect immediately prior to the effective date, but which would not be allowed under the terms of this chapter or any amendment, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel.

C. No structure or building shall be constructed on or moved onto the land, unless the use is changed to a use permitted in that district.

D. If any such nonconforming use of land ceases for any reason for a period of more than 12 months any subsequent use of such land shall conform to the district regulations for the district in which such land is located.
3. Nonconforming Uses of Structures. If a use of a structure, or of a structure and land in combination, exists at the effective date of this chapter or any amendment hereto which was lawful under all laws, including zoning laws, in effect immediately prior to the effective date, but which would not be allowed under the terms of this chapter or any amendment, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted entirely or in part to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

B. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time it became nonconforming. No such use shall be extended to any land outside such building.

C. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature or a more restricted use. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use or a nonconforming use.

D. In the event that a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for a period of 12 months, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. Where nonconforming use status applied to a structure and land in combination, removal or destruction of the structure shall terminate the authorization for the nonconforming use of the land.

E. Nothing in this chapter shall be deemed to prevent the restoration of a building destroyed to the extent of not more than sixty-five percent (65%) of its reasonable value by casualty.

4. Nonconforming Structures. Where a structure is nonconforming by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
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A. That it is not enlarged or altered in a way which increases its nonconformity.

B. Nothing in this ordinance shall be deemed to prevent the restoration of a building destroyed to the extent of not more than sixty-five percent (65%) of its reasonable value by casualty.

5. Nothing in this chapter shall be construed to restrict or prohibit the sale of a nonconforming use or land containing nonconforming uses or structures. However, no purchaser of a nonconforming property or use may claim unnecessary hardship as a basis for a variance under this chapter.

6. The foregoing provisions shall also apply to nonconforming uses and structures in districts hereafter changed and to property hereafter annexed to the City. In such cases the effective date of this chapter shall be the date of amendment or annexation.

165.10 CONDITIONAL USES.

1. Intent. It is intended that some uses which are unique or which would have greater impact on a neighborhood than the typical permitted use of that district be allowed as permitted uses if they are generally compatible with the land use intent of the district and if such use meets or can be adjusted to meet necessary conditions or performance standards which would make such use basically compatible with the permitted uses of the district. Such uses are referred to as “conditional uses” in this chapter. Conditional uses may be allowed in any district providing for them without rezoning land. The intent of conditional use provisions is to allow certain border-line or unique uses in a district subject to performance standards or conditions without which the use would not be permissible within that particular district. These provisions are intended to provide flexibility in the Zoning Ordinance and give the City an opportunity to review and regulate specialized or unique uses, and to decide if such uses are conducive to being located in a specific proposed location rather than forcing the applicant to rezone land which would also allow many other permitted uses under the new district if the proposed use is not actually developed.

2. Procedure. Only those uses listed as conditional uses in an individual zoning district can be considered for being permitted in such district.

A. Application and Fee. Written application must be made to the Zoning Administrator for a conditional use permit. The
necessary information as determined by the Zoning Administrator shall be supplied with such application. A nonrefundable fee of twenty-five dollars ($25.00) shall be paid when an application is submitted. Applications shall be made on forms provided by the City.

B. Board of Adjustment Hearing and Decision. The Administrator shall promptly refer a conditional use permit application to the Board of Adjustment. The Board shall conduct a public hearing and render its decision on the application in conformity with the notice and procedural requirements of Section 165.29(4)(C) of this chapter and the rules of the Board. The Board shall approve or deny the application and, if approved, may attach conditions consistent with the intent of this section to the issuance of the permit.

C. Permit Issuance. The Zoning Administrator shall issue, in writing, all conditional use permits approved by the Board. The permit shall describe the lot to which the permit applies and shall set forth all conditions prescribed by the Board.

D. Compliance Review. Each property for which a conditional use permit has been issued shall be inspected by the Zoning Administrator on or about the first anniversary date following the issuance of the permit to check compliance with all attached conditions. The Zoning Administrator shall report his findings following inspection to the Board. If noncompliance with any conditions attached to the permit is found, the Board, following written notice to the permit holder and an opportunity for hearing, may revoke the conditional use permit. If compliance with all conditions is found to exist, a certificate of compliance shall be issued by the Zoning Administrator.

3. Standards. No conditional use shall be approved by the Board unless the Board shall find:

A. That the establishment, maintenance, or operation of the use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

B. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood;
C. That the establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

D. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed in the immediate neighborhood or with the character of the applicable district as to cause a substantial depreciation in the property values within the neighborhood;

E. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;

F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

G. That the proposed use is not contrary to the objectives of any duly adopted comprehensive plan for the City; and

H. In the case of the uses enumerated in the following subparagraphs (1) and (2), that there be a minimum distance of 500 feet between such use and all places of human habitation, public assembly or business not associated with such use and that such use not be so located that prevailing winds would carry any fumes, odors or gasses from such use toward developed properties or into the City:

(1) Bulk storage of any flammable or explosive substance, including but not limited to liquid petroleum, gasoline, fuel oil, dynamite, and fireworks. For purposes of this subsection, “bulk storage” means storage for other than retail or on-premises sales.

(2) Storage, blending, mixing or on-premises sales of toxic substances, whether or not under pressure, for commercial or agricultural purposes, including but not limited to anhydrous ammonia, fertilizer, pesticide, and herbicide.

I. In the case of telecommunication towers, adequate aviation warning lights will be mounted.  

(Ord. 608 - Dec. 06 Supp)

J. That the establishment, maintenance and operation of the use will be in compliance with any applicable state and federal laws and regulations, including permit and license requirements.

(Ord. 690 - Nov. 11 Supp)
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4. The minimum standards for conditional uses shall be the same as the minimum standards for the permitted uses in the same zoning district except as provided in subsections 5 and 6 of this section.

5. In insuring that all standards are maintained, the Board may attach any reasonable site, building or aesthetic development conditions over and above the minimum standards of the zoning district in which the conditional use will be located. Such conditions must be in place before a certificate of compliance may be issued by the Zoning Administrator.

6. Provisions shall be made to buffer the conditional use from adjacent properties if judged necessary by the Board. Such buffering can take the form of setbacks, vegetation, fences, open space, noise abatement or mitigation of the effects of on-site activities through the location and design of a proposed activity or use.

7. All conditional uses in place on the effective date of this chapter are presumed to be approved conditional uses.

8. A conditional use permit shall be valid only for the use specified on said permit and the permit shall expire at the time the specified use terminates, except in the case of a home occupation conditional use permit which shall expire if the business use ceases for a continuous period of two years or more. The permit shall not be transferable to other uses on the same lot nor shall the permit authorize the permit holder to conduct or establish the specified conditional use at a location other than the location specified in the permit. A conditional use permit is transferable to subsequent owners of the conditional use or the lot on which it is located, except in the case of a home occupation conditional use permit which shall not be transferable to a subsequent owner of the lot and which shall automatically expire upon any transfer of ownership of the lot for which the permit was issued.

9. No person shall engage in any conditional use on any lot in any zoning district unless a conditional use permit has been issued for such use on such lot, and unless all conditions attached to the permit are complied with, nor continue such conditional use after revocation or expiration of a conditional use permit.


A. Purpose. The purpose of this subsection is to authorize several unrelated people to qualify as a "functional family" and live together in a single dwelling unit. Notwithstanding any contrary or inconsistent provision in this chapter, a "functional family" use shall be deemed a conditional use in every residential zoning district.

B. Standards. In addition to the standards imposed by subsection 3 of this section, a conditional use for a "functional family" shall not be approved by the Board unless the Board finds:
(1) The members of the functional family share a strong bond or commitment to a single purpose (e.g. religious orders);
(2) The members are not legally dependent on others not part of the functional family;
(3) Each member can establish legal domicile as defined by Iowa law;
(4) The members will share a single household budget;
(5) The members will prepare food and eat together regularly;
(6) The members will share in the work to maintain the premises; and
(7) Each member will legally share in the ownership or possession of the premises.

C. Exceptions. No “functional family” conditional use shall be approved for any of the following:

(1) More than five members;
(2) Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, or like organization;
(3) Any group of individuals whose association is temporary or seasonal in nature; and
(4) Any group of individuals who are in a group living arrangement as a result of criminal offenses.

D. Conditions. In approving a “functional family” conditional use the Board may impose such conditions as it deems necessary for the general welfare, for the protection of property rights, and for ensuring that the intent and objectives of this chapter will be observed.

E. Transfer. Notwithstanding subsection 8 of this section, a “functional family” conditional use permit is not transferable, but members of the functional family may change provided that the applicable standards and any special conditions imposed are not violated.

(Ord. 526 - Mar. 02 Supp.)

11. Churches in the “B-1” Zoning District. The Board may approve a conditional use permit for a church, chapel, temple or synagogue in the
“B-1” zoning district but, in addition to the other standards imposed by this section, the Board shall impose the following conditions:

A. The predominant use of the building in which church functions are carried out must be a viable commercial business.

B. The permit shall be temporary, expiring not more than two (2) years after issuance. Upon the expiration of any permit, a new temporary permit may be approved but only with the concurrence of the City Council.

(Ord. 642 - Nov. 08 Supp.)

165.11 SPECIAL EXCEPTION USES.

1. Approval by Board of Adjustment. Subject to the restrictions and limitations set forth in this section, the Board shall have authority to approve, deny or conditionally approve applications for special exception use permits in the various zoning districts.

2. Procedure. An application for a special exception use permit shall be filed with the Zoning Administrator. The applicant shall also pay a non-refundable $25.00 application fee. Applications shall be made on forms provided by the City. The application shall describe, in detail, the proposed use or structure for which the permit is sought and shall include a detailed plan of any involved structure, including the location of such structure upon the lot and the location of all lot lines and street right-of-way lines, unless such information has been submitted as part of pending zoning permit application. Upon receipt of a special exception use permit application meeting the foregoing requirements, the Zoning Administrator shall promptly forward the same to the Board. The Board shall conduct a public hearing and render its decision on the application in conformity with the procedural guidelines set forth in Section 165.29(4)(C) of this chapter and the rules of the Board. If approved, the permit shall be issued by the Zoning Administrator and shall identify the permit holder and the lot to which the permit applies and shall set forth the permit expiration date, if any, and all conditions attached by the Board to the permit.

3. Permitted Special Exception Uses. Only the following specific special exception uses are eligible for consideration for a special exception use permit in any zoning district:

A. Non-municipal utility structures, transmission lines and related structures.
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B. Temporary buildings, including trailers, for commerce or industry or for construction purposes, but no permit shall be granted for any such purpose for a period of more than 18 months or permit the changing of one nonconforming use to another.

C. Temporary saw mills located no closer than 200 feet from the nearest residential zoning district and securely fenced from unauthorized entry.

D. Temporary locations for concrete and asphalt production plants.

4. Conditions. In granting any such application, the Board may attach conditions to special exception uses which, in the judgment of the Board, are necessary to protect the health, safety, and general welfare, protect property values, insure compatibility with neighborhood character, mitigate effects of traffic, insure visual acceptability including required landscaping and buffering from adjacent uses, and insure compatibility with City plans and development policies. Conditions may also include time limits on the duration of a special exception use or periodic review of the use and the conditions, if any, attached thereto.

5. Compliance Review. The inspection to be conducted by the Zoning Administrator on the anniversary date of the issuance of any zoning permit as provided in Section 165.28 of this chapter shall also include an inspection and report concerning compliance by the applicant with the terms and conditions of any special exception use permit which has been issued. The Zoning Administrator shall also make an inspection and report and, if appropriate, issue a certificate of compliance in connection with a special exception use at such times as may be required in the conditions attached by the Board in approving any special exception use permit. If noncompliance with any terms and conditions of the permit is found by the Board, after written notice to the permit holder and an opportunity for a hearing, the Board shall revoke the permit.

6. Expiration and Transfer. A special exception use permit shall not be transferable from one person or location to another person or location and shall expire upon termination of the use or on the date specified by the Board.

7. Violations. No person shall engage in any special exception use on any lot in any zoning district unless a special exception use permit has been issued to such person for such lot, and unless all conditions attached
to the permit are complied with, nor continue such special exception use after revocation or expiration of a special exception use permit.

165.12 VARIANCES.

1. Authorization by Board of Adjustment. Upon appeal from a decision of the Zoning Administrator, the Board shall have authority in specific cases to authorize such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, and so that the spirit of the Zoning Ordinance shall be observed and substantial justice done.

2. Procedure. Following an adverse decision by the Zoning Administrator, based upon a determination that a particular structure or use would be contrary to the terms of this chapter, written application may be made to the Board, in connection with an appeal to the Board, requesting that a variance from the terms of this chapter be granted. Such application for a variance shall specifically cite the provision of this chapter as to which a variance is sought, shall specifically describe the nature and scope of the variance requested, and shall specifically identify the lot to which it relates. The variance application shall be made on forms provided by the City and shall be accompanied by a non-refundable $25.00 application fee. The Board, upon receipt of a variance application satisfying the foregoing requirements, shall conduct a public hearing and issue its decision on the application in accordance with the procedural requirements set forth in Section 165.29 of this chapter. If the variance application is granted, the Zoning Administrator shall reverse the decision from which the appeal was taken. Any zoning permit issued shall contain a statement of the variance granted and any conditions attached thereto.

3. Council Review of Variance Grants. No grant of a variance by the Board shall be effective until after review of the variance grant by the Council. The Zoning Administrator shall forward all variance applications which have been approved by the Board to the Council for review at its next meeting following such approval. The Council shall, at such meeting, by motion, either approve the variance grant or remand the matter to the Board for further study. If remanded to the Board by the Council, the Board shall reconsider its decision and may either confirm its prior decision or deny the variance grant. If a variance grant is remanded to the Board for further consideration and the Board confirms its initial decision to approve the variance, the variance grant shall become effective thirty (30) days after the Council’s decision to remand.
4. Unnecessary Hardship. Before a variance application may be granted, the Board must specifically find that the applicant has established that the zoning restrictions applicable to the zoning lot in question impose an unnecessary hardship upon the property. Unnecessary hardship is established only if all of the following elements are shown to exist:

   A. No beneficial use may be made of the property if used only for a purpose allowed in, or subject to the restrictions applicable to, the zoning district in which it is located; and
   
   B. The plight of the applicant is due to unique circumstances and not to the general conditions in the neighborhood; and
   
   C. The use to be authorized by the variance will not alter the essential character of the locality.

5. Other Requirements. In addition to the requirement that unnecessary hardship, as defined above, be shown by the applicant, the Board shall grant a variance application only if all of the following conditions are found to exist:

   A. There are extraordinary and exceptional conditions pertaining to the particular property in question, because of its size, shape or topography, that are not applicable to other lots or structures in the same district.
   
   B. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other persons in the district in which the lot is located.
   
   C. A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other persons in the district in which the property is located.
   
   D. The special circumstances are not the result of the actions of the applicant nor were the same in existence at the time the lot was acquired by the applicant.
   
   E. The variance requested is the minimum variance that will make possible the lawful use of the land, buildings, or structure so that the variance, if granted, would not totally eliminate the zoning restrictions in question.
   
   F. The variance requested is not prospective in nature (i.e., does not involve a structure or use which will not be commenced within one year from the date of approval).
The existence of nonconforming structures or nonconforming uses of land or structures elsewhere in the same district or of permitted or nonconforming structures or uses in other districts shall not be grounds for granting a variance application.

6. Intent. It is intended by this section to restrict the granting of variances to those rare occasions in which unnecessary hardship has been established, as required by the laws of the State of Iowa.

7. Conditions. Conditions may be attached to the approval of variance applications which, in the judgment of the Board, are necessary to protect public health, safety and welfare, protect property values, insure compatibility with neighborhood character, mitigate effects of traffic, insure visual acceptability, including required landscaping and buffering from adjacent uses, and insure compatibility with City plans and development policies.

8. Compliance Review. In each inspection and report on the anniversary date of the issuance of any zoning permit, as required pursuant to Section 165.28, the Zoning Administrator shall also inspect and report upon the compliance by the variance applicant with any conditions attached by the Board to the approval of any variance application. Any certificate of compliance issued as required under Section 165.28 shall include a certification regarding compliance with such conditions.

9. Transfer and Duration. A variance grant applies to the particular lot for which it is requested and not to the applicant. A variance shall not be transferable from one lot or person but remains applicable to the lot when the lot is transferred, unless terminated as hereafter provided. A variance shall be permanent unless the use or structure permitted by the variance is not commenced within one year of variance approval, in which case the variance shall automatically terminate.

10. Violations. No person shall make use of any land or structure or erect, construct, alter, enlarge, reconstruct or move any structure or portion thereof in a manner contrary to any conditions attached to the approval of a variance application nor commence or continue such use or structure after the termination of a variance grant.

165.13 ZONING DISTRICTS AND BOUNDARIES.

1. Classification Of Zoning Districts: This Zoning Ordinance creates ten (10) zoning districts which are available to be applied within the City:
“C”  Conservancy District  
“A”  Agricultural District  
“R-1”  Low Density Residence District  
“R-2”  Single Family Residence District  
“R-3”  Single Family and Two Family Residence District  
“R-4”  Transition District  
“R-5”  Mobile Home Park District  
“B-1”  Central Business District  
“B-2”  General Business District  
“M-1”  Manufacturing District  
“PDD”  Planned Development District  

2. Zoning Map And District Boundary Lines. The boundaries of these districts are hereby established and designated upon a scaled map to be known as the Zoning Map of the City of Waukon, Iowa, which map, with all its designations and information, is hereby made a part of this chapter as if the same were fully set forth herein. The official Zoning Map is on file in the office of the Clerk. Where there is uncertainty as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply: 

A. Where boundaries are shown as approximately following street, alley, lot, or quarter-section lines, such street, alley, lot or quarter-section lines shall be interpreted to be the boundary of the district. 

B. Where no indication of the district boundary is made and no dimensions are shown, the location of the boundary shall be determined by the use of the scale appearing on the map. 

C. Whenever any street, alley, or other public way is vacated by official action of the City, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts. 

D. All territory annexed to the City shall automatically become a part of the R-2, Single Family Residence District, until definite boundaries and zoning districts are recommended by the Commission and adopted by ordinance by the Council; provided,
however, that the Council shall adopt definite boundaries and
district regulations within ninety (90) days from the date of the
annexation. The Commission may recommend definite zoning
districts and boundaries to the Council prior to or at the time the
Council acts on a proposed annexation, and the Council may
adopt definite boundaries at the time of annexation provided the
public notice procedure is followed.

(See EDITOR’S NOTE at the end of this chapter for ordinances amending the
zoning map.)
165.14 “C” CONSERVANCY DISTRICT REGULATIONS. This district is established to provide protection to environmentally sensitive lands such as flood plains, wetlands, stream courses, and park lands. The standards of this district are intended to promote the health, safety and general welfare of the public through the protection of water quality, prevention of erosion and siltation, and the preservation of natural open spaces and plant material for the maintenance of aesthetic living environment and the maintenance of air quality. The cutting of trees and shrubbery shall be regulated to protect scenic beauty, control erosion and reduce the flow of pollutants and nutrients from the shoreland. Trees and shrub cutting shall be governed by consideration of the effect on water quality and basic aesthetic quality and be in accord with accepted timber management practices. These provisions shall not apply to the removal of dead, diseased or dying trees, or to silvicultural thinning.

1. Permitted Uses:
   A. Truck gardening, field crops, hay fields, garden plots.
   B. Public parks, playgrounds and athletic fields, and camp grounds.
   C. Bicycling and hiking trails.
   D. Public roads and streets.
   E. Wood lots and orchards.
   F. Raising and keeping of horses for non-commercial and non-farm purposes provided there is at least two (2) acres of land available per horse with adequate shelter provided. Lands where horses are present must be securely fenced with any horse stable or shelter being at least 100 feet from any “R-2” or “R-3” district boundary line and with no manure storage or spreading within this 100 foot distance.
   G. Cemeteries.
   H. Other uses similar to and compatible with the uses enumerated above.
   I. Customary accessory uses.

2. Conditional Uses [Performance Standards as provided in Section 165.10 (3)]:
   A. Open space leisure, instructional, or recreational activities requiring disruption of natural conditions including the placement of structures or devices not natural to the area.
B. Any utility structure, substation, transmission line or pipeline.

C. Dams, dikes, drainage channels, reservoirs and other structures or devices for the control of flowing or standing water.

D. Private roads or streets.

E. Any public or private filling, grading, lagooning, dredging, or landfilling.

F. Private or institutional recreational lodge or campground.

G. Golf courses and other open space recreational uses and directly associated uses including pro-shops, restaurants, supper clubs, gift shops, club houses and similar uses.

H. Customary accessory uses.

3. Special Exception Uses: As provided in section 165.11 (3).

4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: no minimum
   B. Lot width: no minimum
   C. Height of structure: 35 ft. maximum
   D. Front yard setback: 25 ft.
   E. Side yard setback: 20 ft.
   F. Rear yard setback: 20 ft.
   G. Area of structure: no minimum
   H. Parking: As provided in Section 165.08.
   I. Signs: As provided in the City Sign Ordinance.
165.15 “A” AGRICULTURAL DISTRICT REGULATIONS. The agricultural district is intended to accommodate conventional farming activity, woodland and nursery uses, and customary associated uses. This district is also intended to accommodate active farm lands annexed to the City without jeopardizing such farm activity or the livelihood of such farm owners and/or operators. It is further intended that the uses in this district not present conflicts with other non-agricultural uses in other zoning districts. This district shall be located and regulated in conformance with the City’s comprehensive plan.

1. Permitted Uses.

A. Customary farming, including field crops, dairying, and livestock and poultry raising, provided that no buildings for the keeping or shelter of farm animals be located closer than 200 feet to the nearest “R” zoning district boundary and that no manure storage or spreading occurs closer than 200 feet to the nearest “R” zoning district boundary. Livestock shall be confined and separated from all “R” zoning districts by a continuous and secure fence appropriate to the type of livestock being confined. No surface water drainage from animal or manure storage areas is permitted to drain toward any “R” zoning district or into any City storm sewer system. Such drainage toward an “R” zoning district is permitted if such drainage is confined within the farm property by artificial means and, if such drainage has manure content, if such drainage residue be regularly removed from such concentrated area; but in no case shall such residue be relocated or applied to any farm land within 200 feet from any “R” zoning district. Farmland enrolled in any government farm program qualifies as a permitted farmland use in this district.

B. Wood lots, timber raising and harvesting, plant material, nurseries and greenhouses, and family or commercial garden plots.

C. Seasonal roadside vegetable stands no larger than 500 square feet with no customer parking on public highway or street right-of-way.

D. Airports and customary associated uses including the residence of the operator, manager or custodian.

E. Contractors’ offices, yards and associated storage uses and residence of the owner or operator.
F. Farm-related residences of a farm owner, operator or lessee or a parent or child of such owner, operator or lessee. Such residence may include mobile home type housing. There may be up to two such farm-related residences on a single farmstead and one additional farm or non-farm residence per quarter-section of farm land in the City exclusive of the quarter-section where the farmstead is located.

G. Public and private park, recreational and sports activities including fair grounds, carnival grounds, periodic livestock sales, museums and open display of historic objects, and periodic demonstrations of commercial or entertainment value.

H. Grain storage.

I. Other uses similar to and compatible with the uses enumerated above.

J. Customary accessory uses and buildings for the above permitted uses.

2. Conditional Uses [Performance Standards as provided in Section 165.10 (3)]:

A. Conditional uses of the Conservancy District.

B. Kennels and the residence of the owner or operator.

C. Junk, salvage and wrecking yards and the residence of owner or operator.

D. Trucking terminals and the residence of the owner or operator.

E. Livestock sales barns and related facilities.

F. Grain elevators and related storage; and fertilizer storage, mixing and sales.

G. Any other non-farm storage, processing or manufacturing uses including food products for human or animal consumption.

H. Home occupations.

I. Rock quarries, gravel pits and customary accessory uses.

J. Accessory uses larger than the principal permitted use.

K. Daycare centers and nursery schools.

(Ord. 690 - Nov. 11 Supp)

3. Special Exception Uses: As provided in section 165.11 (3).
4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: 2 acres for any use including residences.
   B. Lot width: 100 ft.
   C. Height of structure: 45 ft. maximum
   D. Front yard setback: 50 ft.
   E. Side yard setback: 25 ft.
   F. Rear yard setback: 25 ft.
   G. Area of structure: no minimum, except 900 sq. ft. minimum for site-built or assembled homes or 720 sq. ft. minimum for mobile homes.
   H. Parking: As provided in Section 165.08.
   I. Signs: As provided in City Sign Ordinance.
165.16 “R-1” LOW DENSITY RESIDENCE DISTRICT REGULATIONS.
This district is established to provide for low density residential land usage and accessory uses particularly in fringe areas of the City to reduce the need for and cost of public services such as sewer and water, or to be applied in those areas of the City where natural environmental conditions present physical development problems such as from high ground, water, bedrock, steep topography, etc. This district can function as a transition district where homes are constructed at a distance from City services without such services being extended initially because of undue cost to the public and the land owner, but with services being extended only where and if the density of uses increases, in which case the area may also warrant rezoning.

1. Permitted Uses:
   A. Permitted uses in “C” District.
   B. Single family dwellings.
   C. Family homes.
   D. Accessory uses.

2. Conditional Uses [Performance Standards as provided in Section 165.10 (3)]:
   A. Home occupations.
   B. Churches, convents, chapels, temples, synagogues, and schools.
   C. Public garden plots.
   D. Utility lines and appurtenances.
   E. Accessory uses larger than the principal permitted use.
   F. Daycare centers and nursery schools.

(Ord. 690 - Nov. 11 Supp)

3. Special Exception Uses: As provided in section 165.11 (3).

4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: 40,000 square feet, or 30,000 square feet if septic system permit is issued by County Board of Health.
   B. Lot width: 150 ft.
   C. Height of structure: not over 40 ft.
   D. Front yard setback: 25 ft.
   E. Side yard setback: 30 ft.
F. Rear yard setback: 50 ft. (2 ft. for accessory structures)

G. Area of structure: 900 sq. ft. per residence.

H. Parking: As provided in Section 165.08.

I. Signs: As provided in City Sign Ordinance.

J. All residential structures including mobile homes or other manufactured homes shall be converted to real estate under the provision of Iowa law and recognized as such by the County Assessor, and shall be placed on a permanent foundation extending continuously around the perimeter of the dwelling part of the structure. Such foundation shall be installed below the frost zone, but a minimum of 48 inches below finished surface grade at the residential unit.
CHAPTER 165

165.17 “R-2” SINGLE FAMILY RESIDENCE DISTRICT REGULATIONS.

This district is established to provide the population density and uses, primarily for single family living, which are expected to accommodate the most prevalent residential developments that will occur in the City. This district is intended for housing having City sewer and water available. This district is to be located consistent with the City’s comprehensive plan.

1. Permitted Uses:
   A. Single family dwellings.  
      *(Ord. 526 - Mar. 02 Supp.)*
   B. Family homes.
   C. (Repealed by Ord. 690 – Nov. 11 Supp.)
   D. Cemeteries.
   E. Accessory uses.

2. Conditional Uses [Performance Standards as provided in Section 165.10 (3)]:
   A. Conditional uses in “R-1” District.
   B. Golf courses and related accessory uses as described in the “C” District.
   C. Indoor recreational facilities.  
      *(Ord. 608 - Dec. 06 Supp)*

3. Special Exception Uses: As provided in section 165.11 (3).

4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: 7000 sq. ft. per lot for detached residences.
   B. Lot width: 60 ft.; 80 ft. for corner lots.
   C. Height of structure: not over 35 ft.
   D. Front yard setback: 25 ft.
   E. Side yard setback: 8 ft.
   F. Rear yard setback: 25 ft. (2 ft. for accessory structures)
   G. Area of principal structure: 900 sq. ft.
   H. Length and width of principal and all residential structures: 24 ft. (measured at the narrowest points, excluding attached garages, porches and breezeways).
   I. No more than 40 percent of a lot may be occupied by all principal and accessory buildings.
J. Parking: As provided in section 165.08.

K. The required front yard setback shall not be paved-over for parking or any other storage use.

L. Signs: As provided in City Sign Ordinance.

M. All residential structures including mobile homes or other manufactured homes shall be converted to real estate under the provision of Iowa law and recognized as such by the County Assessor, and shall be placed on a permanent foundation extending continuously around the perimeter of the dwelling part of the structure. Such foundation shall be installed below the frost zone, but a minimum of 48 inches below finished surface grade at the residential unit.
165.18 “R-3” SINGLE FAMILY AND TWO FAMILY RESIDENCE DISTRICT REGULATIONS. This district is established to provide for both single family residences and two family residences. It is intended particularly to act as a transition district between lower intensity uses such as permitted in “C”, “R-1” and “R-2” districts and high intensity districts, consistent with the City’s comprehensive plan. This district is intended to be provided for lands where sewer and water is or will be required.

1. Permitted Uses:
   A. Permitted uses in “R-2” District.
   B. Two family dwellings.
   C. Accessory uses.

2. Conditional Uses [Performance Standards as provided in Section 165.10 (3)]:
   A. Conditional uses in “R-2” district.
   B. Governmental administrative facilities.
   C. Museums and libraries.
   D. Accessory uses.
   E. Single family zero lot line dwelling per standards under zero lot line development definition in section 165.05.
   F. Bed and breakfast establishments.
   G. Funeral homes.
   H. Condominium housing of no more than four units per structure.
   I. Florists and photo studios.
   J. Day care centers.
   K. Barber and beauty shops.
   L. Repair shops (other than auto or implement repairs) not over 200 sq. ft.
   M. Cemetery monument sales.
   N. Quilt shops. (Ord. 754 – Nov. 17 Supp.)

3. Special Exception Uses: As provided in section 165.11 (3).
4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: Single family residences - 7000 sq. ft.; two family residences – 12,000 sq. ft. *(Ord. 501 – Dec. 99 Supp)*
   B. Condominium density as per lot area and density requirements of the “R-4” district.
   C. Lot width: 60 ft.; 80 ft. for corner lot.
   D. Height of structure: not over 35 ft.
   E. Front yard setback: 25 ft.
   F. Side yard setback: 8 ft. (4 ft. for lots less than 60 ft. in width)
   G. Rear yard setback: 25 ft. (2 ft. for accessory structures)
   H. No more than 40 percent of a lot may be occupied by all principal and accessory buildings.
   I. Area of principal structure: 900 sq. ft.
   J. Length and width of principal and all residential structures: 24 ft. (measured at the narrowest points, excluding attached garages, porches and breezeways).
   K. The required front yard setback shall not be paved-over for parking or any other storage use.
   L. Parking: As provided in Section 165.08.
   M. Signs: As provided in City Sign Ordinance.
   N. All residential structures including mobile homes or other manufactured homes shall be converted to real estate under the provision of Iowa law and recognized as such by the County Assessor, and shall be placed on a permanent foundation extending continuously around the perimeter of the dwelling part of the structure. Such foundation shall be installed below the frost zone, but a minimum of 48 inches below the finished surface grade at the residential unit.
165.19 “R-4” TRANSITION DISTRICT REGULATIONS. This district is established to provide an office, services, and mixed residential district intended to provide a transition between lower density detached housing areas and more intense non-residential land usage, consistent with the City’s comprehensive plan.

1. Permitted Uses:
   A. Permitted uses in “R-3” District.
   B. Multiple family dwellings.
   C. Townhouses and garden apartments.
   D. Condominium housing of up to eight units per structure.
   E. Religious and charitable institutions.
   F. Private clubs and lodges, except those the principal use of which is a service customarily carried on as a business.
   G. Funeral homes.
   H. Accessory uses.

2. Conditional Uses [Performance Standards as provided in Section 165.10 (3)]:
   A. Conditional uses in “R-3” District.
   B. Hospitals and out-patient clinics and associated facilities.
   C. Rest homes, nursing homes and homes for the aged.
   D. Half-way houses.
   E. Accessory uses.
   F. Bed and breakfast establishments.
   G. Professional offices.
   H. Other uses similar to and compatible with the uses enumerated above.

3. Special Exception Uses: As provided in Section 165.11 (3).

4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: For multiple family residence buildings of 3 or more units and condominiums: 3000 sq. ft. of lot area each of the first ten residence units and 2500 sq. ft. for
every residence unit in excess of ten. Single and two family residences: same as for the “R-3” District.

B. Lot width: 80 ft.; 100 ft. for corner lots.

C. Height of structure: not over 45 ft. or 4 stories.

D. Front yard setback: 25 ft.

E. Side yard setback: 8 ft.

F. Rear yard setback: 25 ft. (2 ft. for accessory structures)

G. Area of principal structure: 900 sq. ft.

H. Length and width of principal and all residential structures: 24 ft. (measured at the narrowest points, excluding attached garages, porches and breezeways).

I. Parking: As provided in Section 165.08.

J. The required front yard setback shall not be paved-over for parking or any other storage use.

K. Signs: As provided in the City Sign Ordinance.

L. All residential structures including mobile homes or other manufactured homes shall be converted to real estate under the provision of Iowa law and recognized as such by the County Assessor, and shall be placed on a permanent foundation extending continuously around the perimeter of the dwelling part of the structure. Such foundation shall be installed below the frost zone, but a minimum of 48 inches below finished surface grade at the residential unit.
165.20 “R-5” MOBILE HOME PARK DISTRICT REGULATIONS.
The “R-5” District is established to provide areas for mobile homes which have not been converted to real estate under Iowa law. The location of mobile home districts shall be consistent with the City’s comprehensive plan.

1. Permitted Uses:
   A. Single family mobile homes not converted to real estate under Iowa law.  
      (Ord. 526 - Mar. 02 Supp.)
   B. The home of the mobile home park owner and/or manager which is converted to real estate.
   C. Accessory uses.

2. Conditional Uses:
   A. Real estate and mobile home sales offices.
   B. Daycare centers and nursery schools.
      (Ord. 690 - Nov. 11 Supp)

3. Special Exception Uses: As provided in Section 165.11 (3).

4. Minimum Performance Standards for Permitted Uses: The standards in this subsection apply only to mobile homes not converted to real estate under Iowa law. Other mobile homes and other single family dwellings shall comply with the standards of the “R-2” District. For purposes of this paragraph, “lot” means the parcel or area designated by the mobile home park owner for the placement of a mobile home and the exclusive use of its occupants.
   A. Lot area and density: 3500 sq. ft.
   B. Width of each mobile home lot: 35 ft.
   C. Height: 10 ft.
   D. Setbacks for mobile home on lot:
      Front Yard: 10 ft.
      Rear Yard: 5 ft.
      Side Yard: 5 ft.
   E. Setbacks on perimeter lots: There shall be a minimum 15 feet setback between each mobile home park property line and all mobile homes located on lots along the perimeter of the mobile home park.
F. Street setbacks: There shall be a minimum 25 feet setback between each public street right-of-way line and all mobile homes located on lots which are adjacent to any public street.

G. Private road width within mobile home parks: 22 ft.

H. Minimum mobile home park size: six mobile home lots.

I. Parking requirement: at least one off-street parking space per mobile home unit. No vehicle parking is allowed on the private roads in a mobile home park.

J. Each mobile home park owner shall provide to the City Clerk two copies of a scaled map of the mobile home park showing lot location and boundaries, roads or drives, the location of all sewer and water service lines, wells, septic systems, the property boundary and the location of public street access.
165.21 “B-1” CENTRAL BUSINESS DISTRICT (CBD) REGULATIONS.
This district is established to provide a single contiguous district encompassing the central business district or downtown area which will encourage primarily retail uses and a variety of supporting uses. This district is intended to help implement the unique needs and image necessary to the success of a downtown shopping area by allowing primarily retail uses which encourage pedestrian shopping in a convenient, limited zone. The district is intended primarily for commercial building usage rather than open-area uses which could function in other locations, and particularly the development and maintenance of the downtown area as a specialized pedestrian-oriented shopping and community center, consistent with the City’s comprehensive plan and with adopted downtown plans and policies.

1. Permitted Uses:
   A. Household equipment sales and service.
   B. Department stores and discount variety stores.
   C. Retail stores, including grocery stores and convenience stores with gasoline sales.
   D. Movie theatres.
   E. Financial, business, professional and medical services and institutions.
   F. Banks, savings and loans, brokerage institutions, insurance companies, credit unions, and other financial service firms.
   G. Coin shops, bookstores, arts and crafts.
   H. Laundry and dry cleaning.
   I. Butcher shops, locker plants, and bakeries.
   J. Bus depot.
   K. Restaurants, beer and liquor stores.
   L. Private clubs, lodges, charitable, and service organizations.
   M. Furniture, carpet, appliance and auto supplier stores.
   N. Printing, publishing, engraving and book binding.
   O. Photo studios.
   P. Used merchandise sales.
   Q. Plumbing, heating, electrical, lighting, and paint sales and service.
R. Post office.
S. Sales of hardware, building, lawn and garden supplies, excluding lumber yards.
T. Accessory uses.
U. Experimental, research, and scientific laboratories and businesses including production and sales facilities.
V. Governmental and semi-governmental administrative and protective facilities.
W. Dwelling units above businesses. Street level residential uses not permitted.
X. Other uses, other than conditional uses, which are similar to and compatible with the uses enumerated above.

2. Conditional Uses [Performance Standards as provided in Section 165.10(3)]:
   A. Gasoline service stations.
   B. Wholesale, distributing and warehousing establishments.
   C. Repair shops.
   D. Hotel and motel facilities including other directly related facilities.
   E. Taverns and night clubs.
   F. Amusement parlors and arcades.
   G. Building, plumbing, electrical, and heating contractors offices, shops and yards.
   H. Used car lots.
   I. Farmers’ markets, bazaars, and flea markets.
   J. Public and private parking lots.
   K. Laundromats.
   L. Machine shops.
   M. Cheese making.  
      (Ord. 525 - Mar. 02 Supp.)
   N. Churches, chapels, temples and synagogues.  
      (Ord. 642 - Nov. 08 Supp.)
   O. Daycare centers and nursery schools.  
      (Ord. 690 - Nov. 11 Supp)
3. Special Exception Uses: As provided in Section 165.11(3).

4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: 600 sq. ft.
   B. Lot width: 20 ft.
   C. Height of structure: 40 ft. maximum.
   D. Front yard setback: none.
   E. Side yard setback: none.
   F. Rear yard setback: none.
   G. Area of structure: 600 sq. ft. minimum.
   H. Parking: No off street parking required.
   I. Signs: As provided in City Sign Ordinance.
   J. Fire protection: The principal structure on each lot, and any additions or alterations thereto, shall be constructed in compliance with the requirements of Chapter 147 of this Code of Ordinances unless exempted by the Council as provided in said chapter.
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165.22  “B-2” GENERAL BUSINESS DISTRICT REGULATIONS. This district is established to provide larger areas for retail, commercial, office, service, and apartment uses in areas of good accessibility along arterial streets, consistent with the City’s comprehensive plan. This district is primarily intended to accommodate commercial uses requiring large land and parking areas and not conducive to pedestrian shopping. This district is not intended to duplicate or weaken the central business district.

1. Permitted Uses:
   A. Conditional uses in “B-1” District, except for daycare centers and nursery schools.  
      (Ord. 690 - Nov. 11 Supp)
   B. Grocery stores.
   C. Retail stores.
   D. Automobile sales, repair, painting and washing.
   E. Mobile home sales.
   F. Movie theatres.
   G. Restaurants.
   H. Farm implement and trailer sales and repair, but excluding salvage, wrecking and junkyard operations if such activities are the primary land area use or the primary revenue producing element of the permitted use.
   I. Fruit and vegetable market, greenhouse and nurseries.
   J. Wholesale and distributing establishments.
   K. Pet shops.
   L. Animal hospital and veterinary clinics.
   M. Commercial or institutional recreational game fields, swimming pools, skating rinks, golf driving ranges, miniature golf, go-cart tracks, or similar open air recreational uses and facilities.
   N. Building, plumbing, electrical and general contracting offices and sales outlets.
   O. Multiple family dwellings.
   P. Condominiums.
   Q. Warehouses.
   R. Bowling alleys.
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S. Commercial storage.
T. Banks, savings and loans, brokerage institutions, insurance companies, credit unions and other financial service firms.  
   (Ord. 510 – Nov. 00 Supp.)

2. Conditional Uses [Performance Standards as provided in Section 165.10(3)]:
   A. Single family dwellings.
   B. Conditional uses of the “R-4” residence district.
   C. Vehicle wrecking and salvage.
   D. Fabrication and assembly of products not involving volatile, explosive materials nor producing any contaminated by-product released to the environment, provided such activity does not exceed 3500 sq. ft. of total building area.
   E. Shopping centers or additions thereto.
   F. Other uses similar to and compatible with the uses enumerated above.
   G. Telecommunication towers.  
      (Ord. 608 - Dec. 06 Supp)
   H. Lumber yards.  
      (Ord. 725 – Nov. 14 Supp)

3. Special Exception Uses: As provided in Section 165.11(3).

4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: 7000 sq. ft.
   B. Lot width: 60 ft.; 80 ft. for corner lots.
   C. Height of structure: not over 35 ft.
   D. Front yard setback: 25 ft.
   E. Side yard setback: None required but, if provided, minimum is 8 ft.
   F. Rear yard setback: 15 ft. (2 ft. for accessory structures)
   G. Area of structure: 600 sq. ft.
   H. Parking: As provided in Section 165.08.
   I. Signs: As provided in City Sign Ordinance.
165.23 “M-1” MANUFACTURING DISTRICT REGULATIONS. This district is established to provide for manufacturing or other industrial uses at locations all consistent with land use planning principles and industrial location standards, compatible with the surrounding neighborhood, adequately served by utilities and street/highway access, compatible with the natural environment and not in conflict with the City comprehensive plan and policies.

1. Permitted Uses:
   A. Photograph processing.
   B. Sign companies, including fabrication and repair of all types of signs.
   C. Transfer, storage, moving, freight, and parcel delivery operations.
   D. Warehouses, wholesale operations and distributors.
   E. Lumber yards.
   F. Building, plumbing, electrical, and general contractor office and storage yards.
   G. Sheet metal, welding, body and machine shops.
   H. Vehicle, implement and trailer sales and repairs.
   I. Mobile home sales.
   J. Repair shops.
   K. Processing, bottling and distribution facilities for non-alcoholic beverages.
   L. Sausage manufacturing and sales.
   M. Preparation, assembly and packaging of foods.
   N. Manufacturing and assembling of commercial and household fixtures, cabinets, and counters, but excluding furniture.
   O. Sales, rental, storage, and distribution of household and commercial fuel tanks.
   P. Hatcheries.
   Q. Manufacturing of pottery or similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
R. Industrial research laboratories.
S. Ice, coal, brick and stone sales and storage.
T. Bag, carpet and rug cleaning and commercial laundries.
U. Concrete ready-mix plants.
V. Manufacturing, processing and assembly of any metal or non-metal products.
W. Gas stations, convenience stores.
X. Airport grounds including customary accessory uses such as terminals, hangars, flying schools, protective facilities and parking.
Y. Circus, carnival or similar transient enterprises.
Z. Pasturing of horses and raising of field crops.
AA. Greenhouses and nurseries.
BB. Agricultural services, including elevators, but not including the storage, blending, mixing or on-premises sale, for commercial agricultural purposes, of pesticide, herbicide or anhydrous ammonia.
CC. Truck terminals and municipal garage and yard facilities.
DD. Accessory uses.
EE. Animal hospitals, veterinary clinics and boarding kennels.  
   *(Ord. 677 - Nov. 10 Supp.)*

2. Conditional Uses [Performance Standards as provided in Section 165.10(3)]:

   A. Conditional uses in “C” District.
   B. Single family residence housing a custodian, owner, watchman or caretaker and his family whose employment is directly related to a permitted use of the “M-1” district.
   C. Racing tracks for stock cars, snowmobiles, mini-bikes and other motorized vehicle demonstrations and exhibitions.
   D. Public fairgrounds.
   E. Boarding kennels.
   F. Junk, iron or rags storage or baling where the premises upon which such activities conducted are wholly enclosed within a building, wall or fence not less than eight (8) feet high completely obscuring the activity.
   G. Businesses whose functions include the bulk storage or on-premises sale of flammable or explosive substances, or the storage, blending, mixing or on-premises sale, for commercial agricultural purposes, of pesticide, herbicide or anhydrous ammonia.
H. Livestock sales barns, stock yards and related uses.
I. Slaughter houses and any meat or vegetable processing factory.
J. Waste water treatment facilities.
K. Rock quarries, rock processing and gravel pits.
L. Chemical manufacturing, refining and storage.
M. Any landfill, incinerator or solid waste collection or recycling services.
N. Junk or salvage yards.
O. Accessory uses.
P. Daycare centers and nursery schools.  
\textit{(Ord. 690 - Nov. 11 Supp)}
Q. Telecommunication towers.  
\textit{(Ord. 708 - Oct. 12 Supp.)}
R. Governmental and semi-governmental administrative and protective facilities.  
\textit{(Ord. 724 - Nov. 14 Supp.)}
S. Private gymnasiums and physical fitness facilities.  
\textit{(Ord. 750 - Nov. 17 Supp.)}

3. Special Exception Uses: As provided in Section 165.11(3).

4. Minimum Performance Standards For Permitted Uses:
   A. Lot area and density: 18,000 sq. ft.
   B. Lot width: 80 ft.
   C. Height of structure: not over 45 ft.
   D. Front yard setback: 30 ft.
   E. Side yard setback: 8 ft.; 12 ft. where adjacent to any “R” district.
   F. Rear yard setback: 15 ft. (2 ft. for accessory structures)
   G. Area of structure: 600 sq. ft.
   H. Parking: As provided in Section 165.08.
   I. Signs: As provided in the City Sign Ordinance.
   J. Drainage: All properties in the Manufacturing District shall accommodate, on the site, to the extent feasible, storm water drainage generated by developed uses in excess of pre-existing natural drainage if there is no storm sewer system. Temporary
retention of storm drainage may be allowed to be released gradually into the pre-existing, natural drainage pattern.

165.24 “PDD” PLANNED DEVELOPMENT DISTRICT REGULATIONS.
The Council may, upon application for rezoning, establish special zoning districts, with regulations in each, which will over a period of time tend to promote the maximum benefit from coordinated site planning, diversified location of structures and mixed compatible uses. Such regulations shall provide for a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities, and insure adequate standards for construction and planning. Such regulations may also provide for the development of the land in such districts with one or more principal structures and related accessory uses, and in such districts the regulations need not be uniform. This district is established to permit greater incentives and flexibility for promoting creative and imaginative design for the development of residential neighborhoods and of special areas having mixed use potential. This district can be used to provide cluster residential development with commonly owned and managed open space and recreational areas and to allow integration of compatible non-residential land uses in a controlled manner which would not be subject to repeated governmental reviews and approvals such as rezonings, plat submission or spot zoning requests. It is further intended to promote more economical and efficient use of land while providing a harmonious variety and mixture of housing choices, shopping and employment activities, recreation and natural areas, utility and circulation systems and building styles. This district is also intended to preserve to the greatest extent possible natural and valuable landscape features and to allow variability in the yard, area, height and street setback requirements for the purpose of accomplishing other extensions of this district. This district is also intended to be a management tool for the City and for private developers to be applied as a floating zone to stimulate and regulate land uses having special development characteristics, all in accordance with the City’s Comprehensive Plan.


2. PDD Zoning Procedures. A PDD rezoning application shall be accompanied by a Preliminary Sketch Plan which shall be reviewed by the Commission and Council prior to action on the rezoning application.

Preliminary Conference. After the PDD rezoning application and Preliminary Sketch Plan have been submitted there shall be an informal preliminary conference between the applicant and the Zoning Administrator, the City planning staff or
planning consultants, the Mayor and any others judged necessary by the Mayor. The purpose of this conference shall be to establish a mutual understanding of the proposal between the City and the applicant, to resolve any initial problems and expedite the Council’s decision on the application.

A. Preliminary Approval. The PDD rezoning application shall be scheduled for Commission preliminary conference. Commission’s review shall be based upon the Preliminary Sketch Plan and such other information that is presented. The Commission shall make a preliminary recommendation to approve, approve conditionally or reject said application with such preliminary recommendation being forwarded to the Council for preliminary approval or rejection.

B. Final Approval. The PDD rezoning application and Final Development Plan, which is based upon the approved Preliminary Sketch Plan, may be submitted to the Commission and Council after receiving preliminary approval. The application and Final Development Plan shall be recommended for approval or rejection by the Commission with such recommendation presented to the Council. If the Council approves the application and Final Development Plan the land included within the plan shall be rezoned, by ordinance, to the “PDD” District and the plan shall be recorded in the County Recorder’s office within 60 days of such approval. Three copies of the Final Development Plan shall be filed in the City Clerk’s office before any zoning permit shall be issued or before any public improvement in said PDD development shall be built or accepted by the City.

3. Preliminary Sketch Plan. This plan shall show the following elements: building locations and sizes, designated land uses, areas, open space, public lands, streets, utility locations and easements, parking areas, visual screening, surface drainage features, lot layout for any proposed subdivision of lands for conveyance to others, and any other physical features required by the Commission after initial review. Additional information which shall accompany this plan includes: estimated development number housing units and type of housing, and whether or not there will be a homeowners association or similar group of property owners to be responsible for ownership, maintenance, etc. of common lands. Two copies of all maps, photographs, charts and other required information shall be submitted to the Clerk.
4. Except for changes and modifications approved in the manner set forth in subsection 12 of this section, the PDD applicant shall develop the property included within the PDD in accordance with the terms of the Final Development Plan and any conditions attached thereto by the Council. Any substantial variation from any part of the recorded Final Development Plan shall void any related zoning permit and shall disqualify any such development or part thereof from receiving a certificate of compliance.

5. The Final Development Plan shall be binding on the PDD applicant’s successors in interest with respect to any of the real estate included in the PDD.

6. There shall be no minimum yard or height requirements in a “PDD” District except that minimum yards, as specified in the “R-4” District, shall be provided around the boundaries of the “PDD” District.

7. Uses along the project boundary lines that are less restrictive than “R-4” District permitted uses shall not be in conflict with those allowed in adjoining or opposite property. To this end the Council may require, in the absence of any appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.

8. In their review of the plan, the Commission and Council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land or permanent open space. “Common land” shall refer to land dedicated to public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public.

9. No permit for any permitted commercial building shall be issued until at least twenty-five percent (25%) of the PDD district in question is developed for residential uses.

10. Land Use and Density Standards:
   A. No more than fifteen percent (15%) of the total area of a “PDD” District may be used for commercial uses.
   B. No more than ten percent (10%) of the total area of a “PDD” may be used for manufacturing uses.
   C. The overall dwelling unit density in any designated one and two family areas in a “PDD” shall not be greater than is allowed for in the “R-3” District.
D. Overall density requirements in any designated multiple family area of a “PDD” District shall not be greater than allowed in the “R-4” District.

E. Density requirements shall be computed on the basis of the total area of residential uses as designated on the Final Development Plan using private streets and drives, common open space, park areas, recreation areas, off-street parking areas, as well as building site areas.

11. **Size of “PDD” District:** The minimum size of a “PDD” District shall be five (5) acres.

12. **Changes and Modifications.** No change or modification of the plan of any “PDD” District as to land use, density, public facilities or size shall be permitted except by the procedure provided for amendments to this chapter. Other changes or modifications, such as location of buildings, parking lots, and common areas, except streets, may be made upon application to and approval of the Commission.

13. **Exceptions.** A PDD zoning approval shall be valid for a period not to exceed two (2) years before development is commenced within the district. Application may be made by the applicant originally granted the PDD zoning for an extension not to exceed one additional year. Application shall not be made for more than one such extension. If no development is begun at the end of three years from the zoning approval the lands shall revert to the previous zoning districts.
165.25 AVIATION PROTECTION.

1. Purpose and Intent. The purpose of this section is to impose certain special restrictions on land use within the City, in addition to all other restrictions imposed under this chapter, in order to insure the safe operation of airborne aircraft, particularly in areas adjacent to the Waukon Municipal Airport. It is intended that such restrictions shall be coordinated with like restrictions existing under the Allamakee County Zoning Ordinance.

2. Nuisance Declared. The creation, establishment or maintenance of an airport hazard is hereby declared to be a public nuisance injurious to the community served by the airport and:

   A. That it is necessary in the interest of the public health, safety and welfare that airport hazards be prevented or abated; and

   B. That this should be accomplished, to the extent legally possible, by proper exercise of the police power, including the use of all nuisance abatement procedures provided in this Code of Ordinances; and

   C. That the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the City may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests therein.

3. Definitions. The following terms are defined for purposes of this section, unless the context otherwise requires:

   A. "Airport" means the Waukon Municipal Airport.

   B. "Airport elevation" means the highest point of an airport’s usable landing area measured in feet above mean sea level, which elevation is established to be 1,280 feet.

   C. "Airport hazard" means any structure or tree or use of land which would exceed the Federal Obstruction Standards as contained in 14 Code of Federal Regulations, Sections 77.21, 77.23 and 77.25, as revised March 4, 1972, and which obstruct the airspace required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
D. “Airport primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway, and extending in length 200 feet beyond both ends of the hard surface. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(Ord. 581 - Sep. 04 Supp.)

E. “Airspace height” means for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

F. “Control zone” means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

G. “Instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.

H. “Minimum descent altitude” means the lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

I. “Minimum en route altitude” means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

J. “Minimum obstruction clearance altitude” means the specified altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within 22 miles of a VOR.

K. “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
L. “Structure” means any animate or inanimate thing or object constructed, erected, planted or placed, the use of which requires that it be permanently or temporarily affixed to or placed upon or in the ground or upon or in another structure.

M. “Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, a military services approved military airport layout plan, or any planning document submitted to the FAA by competent authority.

N. “Zoning map” means the official Airport Zoning Map of City, filed in the office of the Clerk.

4. Airport Zones And Airspace Height Limitations. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on a map to be known as the Airport Zoning Map of the City of Waukon, Iowa, which map, with all its designation and information, is hereby made a part of this section as if the same were fully set forth herein. The official Airport Zoning Map is on file in the office of the Clerk. A structure located in more than one zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined, and the height restrictions applicable to each zone are set forth, as follows:

A. Horizontal Zone: The land within the City lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of runways 7 & 25, and connecting the adjacent arcs by lines tangent to those arcs. No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Zoning Map.

B. Conical Zone: The land within the City lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Zoning Map.

C. Approach Zone: The land within the City lying under a surface longitudinally centered on the extended runway centerline
and extending outward and upward from each end of the primary surface.

(1) The inner edge of the approach surface is 250 feet wide for Runways 7 & 25.

(2) The outer edge of the approach zone is 1,250 feet for Runways 7 & 25.

(3) The approach zone extends for a horizontal distance of 5,000 feet at a slope of 20 to 1 for Runways 7 & 25.

No structure shall exceed the approach surface to any runway, as depicted on the Zoning Map.

D. Transitional Zone: The land within the City lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. No structure shall exceed the transitional surface, as depicted on the Zoning Map.

E. No structure within the City shall be erected that raises the published Minimum Descent Altitude for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum Obstruction Clearance Altitude or Minimum En Route Altitude to be increased on any Federal Airway.

5. Use Restrictions. Notwithstanding any other provisions of this chapter, no use may be made of land or water within the City in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

A. All lights or illumination used in conjunction with street, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Waukon Municipal Airport or in the vicinity thereof.

B. No operations from any use shall produce smoke, glare, or other visual hazards within three (3) statute miles of any usable runway of the Waukon Municipal Airport to the extent that such would constitute an airport hazard as defined by this section.

C. No operations from any use in the City shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.
   A. Notwithstanding any other provisions of this chapter, the owner of any structure over 200 feet above ground level shall install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-ID and amendments. Additionally, any structure constructed after the effective date of this chapter and exceeding 949 feet above ground level shall install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-ID and amendments.
   B. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

7. Permits And Variances.
   A. The Zoning Administrator shall not issue a zoning permit for a structure which would be in violation of any of the restrictions of this section unless a variance is granted by the Board of Adjustment.
   B. No request for a variance to the requirements of this section shall be considered by the Board of Adjustment unless a copy of the application has been submitted to the Waukon Municipal Airport Commission for its opinion as to the aeronautical effects of such a variance. If the Waukon Municipal Airport Commission does not make its recommendation to the Board of Adjustment within thirty (30) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance without such recommendation.

165.26 PLANNING AND ZONING COMMISSION. The Planning and Zoning Commission shall have authority over the following zoning functions:

1. Prepare Zoning Ordinance. To prepare the City’s zoning ordinance and map and recommend same to the Council.
2. Zoning Amendments. To propose changes in the zoning district boundaries or changes in the regulations and text of this chapter and forward such recommendations to the Council.
3. Rezoning. To hear requests to rezone land from one district to another; to conduct a public hearing on such request and forward a recommendation to the Council.

4. Other Functions. To perform such other duties and responsibilities as may be specified in this chapter.

165.27 ZONING ADMINISTRATOR.

1. Creation of Position. The position of Zoning Administrator is hereby created. This officer shall be appointed by the Council and shall administer and enforce the provisions of this chapter and the City Sign Ordinance. Appeals from the decision of the Zoning Administrator may be made to the Board of Adjustment as provided herein. The Zoning Administrator shall receive compensation as provided by the Council by resolution. An Assistant Zoning Administrator shall be appointed by the Mayor and approved by the Council, who shall perform the duties of this office in the absence of the Zoning Administrator.

2. Responsibilities.

A. The Zoning Administrator shall be responsible for the issuance of all permits and certificates of compliance and for the collection and deposit of necessary fees in conformance with the requirements of this chapter.

B. The Zoning Administrator shall prepare a case report on each zoning matter requiring action or review by the Commission, the Board or the Council. The report shall summarize all facts relevant to the pending zoning matter and contain an assessment of the likely impact of any new uses involved on the affected neighborhood or on the City as a whole.

C. The Zoning Administrator shall attend all meetings of the Commission, the Board and the Council at which zoning matters are acted upon or reviewed.

D. The Zoning Administrator shall investigate all suspected violations of the zoning ordinance, report the results of such investigations to the Mayor and City Attorney and assist in all enforcement and violation prosecution proceedings.

165.28 ZONING PERMITS AND CERTIFICATES OF COMPLIANCE.

1. Permit Required. It is unlawful to commence or proceed with the erection, construction, alteration, enlargement, extension, reconstruction
or moving of any building, structure, or any portion thereof, including the excavation of a basement for a structure, without first having applied in writing to the Zoning Administrator for a zoning permit and until a zoning permit has been issued for such purpose. A zoning permit is not required for any minor construction or alteration having a cost or value of less than $500.00 or for the remodeling of any structure not involving enlargement or structural alteration.

2. Applications. An application for zoning permit shall be made to the Zoning Administrator on forms provided by the City and shall be accompanied by a detailed set of plans, in duplicate, showing the size of the proposed building or structure, its location on the lot, the materials of which it is to be constructed, the details and type of construction to be used, and utility servicing. If any portion of the lot is subject to a public street or highway right-of-way, the portion of the lot subject to such right of way shall be identified. Any known public or private water or sewer mains or service lines located on the lot shall also be shown. The application shall also set forth the legal description and address of the lot and describe the use to be made of the structure. Upon issuance of a permit, one set of said plans shall be retained by the Zoning Administrator as a permanent record and one set shall be returned to the applicant. The Zoning Administrator may, in his or her own discretion, permit the substitution of a detailed written statement covering the essential information required in place of a plan; provided, however, that the applicant shall in all cases furnish duplicate copies of a sketch of the lot showing the lot lines, any street or highway right of way lines and the location of the proposed structure in relationship to such lines. The Zoning Administrator shall also have discretion, in cases of uncertainty, to require the boundaries of a lot to be surveyed and marked by a licensed land surveyor as a condition for the issuance of a zoning permit if necessary to determine compliance with this chapter.

3. Applicants. The applicant for a zoning permit for a structure shall in all cases be the owner of the lot unless the structure to be built or located on the lot will be owned by someone other than the owner of the lot, in which case the owner of the structure shall be the applicant.

4. Other Permits. If a particular structure or use would be lawful under this chapter only as a conditional use or a special exception use, no zoning permit shall be issued by the Zoning Administrator until the necessary conditional use or special exception use approval has been granted as provided in this chapter and a conditional use permit or a special exception use permit issued.
5. Forms. Blank forms shall be provided by the Zoning Administrator for the use of those applying for permits as provided by this chapter. Any permits issued by the Zoning Administrator shall be on standard forms for such purpose and shall be furnished by the City.

6. Inspection. The lot and the location of the proposed structure thereon shall be staked out on the ground by the applicant or his agent and inspected by the Zoning Administrator before a zoning permit is issued.

7. Time; Rejections. Except as may be otherwise provided in this chapter, the Zoning Administrator shall issue a zoning permit or deny a zoning permit application within 10 days after receipt of an application, provided that the required information is contained in the application and the other conditions set forth in this section have been satisfied by the applicant. The Zoning Administrator shall deny any application which is not filed in conformity with this section or which proposes a structure or use which would be contrary to the regulations applicable to the zoning district in which the lot is located. Any denial of a zoning permit application shall be given in writing with the reasons for such denial stated thereon. Any denial notice shall also inform the applicant of the right of appeal to the Board of Adjustment.

8. Issuance. A zoning permit shall be issued by the Zoning Administrator when the application and the investigation thereof indicates compliance by the applicant with all of the provisions of this chapter and all other applicable laws of the City and State.

9. Expiration. Each zoning permit shall expire one year after its date of issuance and no person shall commence or proceed with the construction or other act for which the zoning permit was issued after the expiration date. Application may be made for a new zoning permit upon expiration of the original permit. However, if construction of a structure is started and not substantially completed and is then abandoned for a period of two years or more, the property shall be returned to its condition prior to the commencement of construction.

10. Records. A careful record of all permit applications, plans and permits issued shall be maintained by the Zoning Administrator.

11. Basement Dwellings. A zoning permit for a basement dwelling may be issued with the provision that the main structure of the dwelling be completed within a period of 24 months from the issuance of the permit.
12. Fees and Bond.

A. Except as provided by paragraph D below, the applicant shall file with the zoning permit application an administration and inspection fee, to be deposited in the City’s General Fund, based upon the cost of the structure or improvement determined as follows:

<table>
<thead>
<tr>
<th>Total Valuation</th>
<th>Permit Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00 to $5,000</td>
<td>$10.00</td>
</tr>
<tr>
<td>$5,001 or more</td>
<td>$10.00, plus $1.00 for each $1,000 of cost, or fraction thereof, in excess of $5,000</td>
</tr>
</tbody>
</table>

B. In addition to the zoning permit fee, every application for a zoning permit involving improvements which will require excavation upon public land, including streets, alleys and/or sidewalks, shall be accompanied by a cash bond as provided in Section 135.09(4) of this Code of Ordinances.

C. If a zoning permit application is denied, the permit fee and the bond referred to above shall be returned to the applicant by the Zoning Administrator at the time the applicant is notified of the denial of the application.

D. No permit fees shall be required from any local, state or federal governmental agency. In the case of new construction by nonprofit entities, the Council shall have the right to waive or reduce the permit fees.

(Ord. 631 – Dec. 07 Supp.)

13. Proposed Use Changes. If the owner or occupant of a lot desires to commence a new or different use on the lot or of any structure on the lot, an application may be made to the Zoning Administrator for a zoning permit which specifically authorizes the proposed new or different use. In such cases the application need not include any structural plans or sketches but shall include the legal description and address of the lot, and a description of the proposed new or different use. The application shall be made by the owner or prospective owner of the new or different use. No fee shall be required for this type of zoning permit. The procedure described in this subsection is not mandatory but is made available to help eliminate uncertainty and disputes in situations where use changes are contemplated but a zoning permit is not required under subsection 1 of this section because no new or altered structures are proposed.

A. No structure, lot or other premises shall be occupied or used for which a zoning permit, conditional use permit and/or special exception use permit has been issued after one year from the date of issuance of the permit unless a certificate of compliance shall have been issued by the Zoning Administrator. Such certificate shall show that the structure or premises or part thereof and the use thereof are in compliance with the relevant provisions of this chapter and in compliance with all permits issued therefor. Such certificate shall be deemed applied for when application is made for any permit. Under such rules and regulations as may be established by the Council by resolution, the Zoning Administrator may issue a temporary certificate of compliance valid for up to one additional year within which time the applicant or owner shall cause the structure or part thereof or use thereof to come into complete compliance with the requirements of this chapter and of the permit.

B. Upon written request from the owner or tenant, the Zoning Administrator shall also issue a certificate of compliance for any existing structure, premises or use certifying, after inspection, the extent and kind of use made of the structure or premises and whether or not such structure or use conforms to the provisions of this chapter, including provisions relating to nonconforming structures and uses existing on the effective date of this chapter.

C. No additional fee shall be required for the issuance of a certificate of compliance required under the provisions of subsection A of this subsection. A fee of $25.00 shall be required for certificates of compliance issued under subsection B of this subsection.

15. Permit Moratoriums. Notwithstanding any other provision of this chapter, whenever there is pending before the Council or the Planning and Zoning Commission a proposal to amend this zoning ordinance or the official zoning map, the Council may, by resolution, declare a moratorium on the issuance of zoning permits authorizing structures or uses that may be prohibited or otherwise affected if the pending amendment proposal is ultimately enacted. Any such moratorium resolution shall, to the extent reasonably possible, specify the types of structures, uses and/or districts subject to the moratorium. A moratorium resolution shall be effective for the period stated in the resolution, but not more than ninety (90) days, and shall not be extended or renewed.
During any moratorium period the Zoning Administrator shall not issue any zoning permits in violation of the moratorium resolution.

(Ord. 628 – Dec. 07 Supp.)

165.29 BOARD OF ADJUSTMENT.

1. Creation and Membership. A Board of Adjustment, hereinafter referred to as the Board, is hereby established. The operation, powers and duties of the Board shall be as provided in Iowa Code Sections 414.7 through 414.19, which are hereby adopted by this reference. The Board shall consist of five (5) members appointed by the Mayor, subject to the approval of the Council, for staggered terms of five (5) years. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant during a term. Members shall be removable for cause by the Mayor upon written charges and after an opportunity for a public hearing. A majority of the members of the Board shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate.

2. Rules; Meetings; General Procedure. The Board shall adopt, in writing, such rules of procedure not in conflict with this chapter as may be necessary to enable it to perform its functions and duties. The Board shall elect a Chairperson and Vice Chairperson from among its members who shall serve for one year. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine by rule. The Chairperson, or in the Chairperson’s absence, the Vice Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be subject to the Iowa Open Meetings Law. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Clerk and shall be a public record. The Clerk is designated as the Secretary of the Board and shall provide such clerical assistance as may be necessary to carry on its work.

3. Powers and Duties. The Board shall have the following powers and duties:

A. To hear and decide appeals from the Zoning Administrator where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this chapter.

B. Where there is any question or dispute regarding the location of a zoning district line or the application of any
provision of this chapter, to interpret, upon the written request of the Zoning Administrator or any other person, the zoning map and the provisions of this chapter in such a way as to carry out the intent and purpose of the zoning ordinance with respect to the particular district or vicinity in question.

C. To permit, upon written application, the reconstruction within one year and use as before of a nonconforming structure destroyed or damaged to more than 50% of its value by explosion, fire, act of God, public enemy or other calamity, where the Board finds that the public welfare requires a continuance of the nonconforming use and that such continuation would not primarily permit a continuation of a monopoly.

D. To determine the classification of any use in cases of uncertainty.

E. To approve, deny or approve conditionally applications for conditional use permits as provided in Section 165.10 of this chapter.

F. To approve, deny or approve conditionally applications for special exception use permits as provided in Section 165.11 of this chapter.

G. To authorize, upon appeal in specific cases, variances from the terms of this chapter as provided in Section 165.12 of this chapter.

In exercising the foregoing powers, the Board may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify any order, requirement, decision or determination of the Zoning Administrator appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator.

4. Appeals and Applications for Conditional and Special Exception Use Permits and Variances.

A. Appeals to the Board may be taken by any person aggrieved or affected by any decision of the Zoning Administrator, including appeals by any officer, department, or agency of the City. Such appeals shall be taken within a reasonable time as provided by the rules of the Board by filing with the Zoning Administrator and with the Board a written notice of appeal specifying the grounds thereof. The Zoning Administrator shall, following the filing of a notice of appeal,
forthwith transmit to the Board all documents constituting the record upon which the action appealed from was taken.

B. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after the filing of the notice of appeal that, by reason of the facts stated in the certificate, a stay would, in the opinion of the Zoning Administrator, 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, upon due cause shown, by the Board or by the Iowa District Court upon application following notice to the Zoning Administrator.

C. The Board shall hear an appeal and applications for use permits under Section 165.10 and 165.11 or variances under Section 165.12 and render its decision within 30 days from the filing of the notice of appeal or application. Notice of the time and date of the hearing shall be furnished to the appellant or applicant and the Zoning Administrator, and public notice of such hearing, including its purpose, shall be given in all cases in the manner required by the Iowa Open Meetings Law. In all proceedings involving a request for a conditional use permit, a special exception use permit or a variance, public notice of such hearing, of the name of the applicant, and a description of the permit or variance requested shall be published once in a newspaper with general circulation in the City at least four days prior to the hearing and shall be mailed to owners and occupants of lots located, in whole or in part, within 200 feet of the exterior boundaries of any lot to which the pending application relates. Mailed notice shall not be deemed inadequate if it is sent to property owners as disclosed by the records maintained by the County Auditor and to occupants as disclosed by the utility records maintained by the Clerk. Any interested person may appear in person or by agent or attorney and present evidence or otherwise be heard at each hearing before the Board.

5. Voting. The concurring vote of three members of the Board shall be necessary to reverse or modify any order, requirement, decision or determination by the Administrative Officer, or to decide in favor of the applicant on any other matter upon which the Board is required to pass, or to effect any variance from the terms of this chapter.

6. Petition for Judicial Review. Any person or persons aggrieved by any decision of the Board or any City resident or any officer, department,
or Board of the City, may present to the Iowa District Court a petition, duly verified, alleging that such decision is illegal, in whole or in part, and specifying the grounds of illegality. Such petition shall be presented to the Court within 30 days after the filing of the decision of the Board. The procedures for judicial review and the relief available shall be governed by the relevant provisions of Iowa Code Chapter 414.

7. Fees. A fee of $25.00 shall be paid by any person, other than an officer or agency of the City acting in such capacity, at the time any application is made to have the Board render any decision upon any appeal or on any other matter under the jurisdiction of the Board.

165.30 AMENDMENTS AND CHANGES.

1. Proposed Amendments and Recommendations. Amendments to the text of this chapter or to the boundaries of the various zoning districts established on the official zoning map, including changes in the restrictions applicable to any district and requests for the rezoning of any lots or areas, may be proposed by the Commission, the Council or by any property owner. A request for a change in the zoning classification for any lot or property shall be made on a rezoning application form provided by the City. Each rezoning application filed by or on behalf of the owner of private property for which rezoning is requested shall be accompanied by a non-refundable application fee of $100.00. All such proposals for amendments or changes shall be first referred to the Commission for review and recommendation. The Commission shall submit its recommendation concerning each proposed amendment or change to the Council prior to action thereon by the Council. Prior to making its recommendation to the Council concerning any rezoning request, the Commission shall conduct a public hearing on the proposal. Notice of the rezoning proposal and of the time and place of the public hearing shall be mailed to owners and occupants of lots located, in whole or in part, within 200 feet of the exterior boundaries of any lot or property for which the zoning change is proposed at least seven (7) days before the public hearing.  

(Ord. 548 - Mar. 02 Supp.)

2. Public Notice and Hearing. No amendment to the text of this chapter or to the official zoning map shall become effective until after a public hearing is held on the proposed amendment at which parties in interest and citizens shall have an opportunity to be heard. The notice of time and place of such hearing shall be published in a newspaper having general circulation in the City at least once, not less than seven (7) days nor more than twenty (20) days before the public hearing. In the case of any proposed change in the zoning classification for any lot or property,
notice of the public hearing shall also be mailed to owners and occupants of lots located, in whole or in part, within 200 feet of the exterior boundaries of any lot or property for which the zoning change is proposed. Mailed notice shall not be deemed inadequate if it is sent to property owners as disclosed by the records maintained by the County Auditor and to occupants as disclosed by the utility records maintained by the Clerk. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

3. Written Protest. If a written protest against any amendment to the text of this chapter or to the official zoning map is filed with the Clerk and signed by the owners of 20% or more of the area of the lots included in any zoning district to which the proposed amendment would have application, or by the owners of 20% or more of the property which is located within 200 feet of the exterior boundaries of such property, the amendment shall not become effective except by the favorable vote of at least ¾ of all the members of the Council. The protest, if filed, must be filed before or at the public hearing on the proposed amendment.

4. Amendment by Ordinance. Following the public hearing on any proposed amendment, the amendment may be adopted by the Council by ordinance.

5. Conditional Rezoning. As part of an ordinance changing land from one zoning district to another zoning district, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change.

165.31 ENFORCEMENT AND VIOLATIONS.

1. It is the duty of the Zoning Administrator, with the aid of the Police Department and the City Attorney, to enforce the provisions of this chapter. The Zoning Administrator shall promptly report all violations to the City Attorney and the Mayor.

2. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved, or maintained or any building, structure or land is used in violation of this chapter or in violation of the terms and conditions of any permit, conditions or regulations issued or made under the authority of this chapter, the City Attorney, at the
direction of the Council, shall, in addition to other remedies, institute any appropriate action or proceedings in any court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, movement, 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 such premises.

3. Any person who violates, disobeys, neglects or fails to comply with or who resists the enforcement of any of the provisions of this chapter or any of the terms and conditions of any permit or regulation made under the authority of this chapter shall be guilty of a simple misdemeanor and a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.

165.32 INTERPRETATION, GREATER RESTRICTIONS AND ABROGATION.

1. If the provisions of this chapter and any regulations made under authority conferred hereby impose higher or stricter standards than are required under the terms of any other City ordinance or regulation, this chapter shall govern. If any other City ordinance or regulation imposes higher or stricter standards than are required by this chapter and any regulations made under authority conferred hereby, such other ordinance or regulation shall govern.

2. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or private deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

165.33 WARNING AND DISCLAIMER OF LIABILITY. The degree of protection intended to be provided by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. This chapter does not imply that compliance will result in freedom from damages nor shall this chapter create a liability on the part of or a cause of action against the City or any officer, employee or agency thereof for any damage that may result from reliance on this chapter.

165.34 FLOODPLAIN MANAGEMENT ORDINANCE.

1. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured
and the use of which is incidental to the use of the principal structure.

B. “Base flood” means the flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the “100-year flood.”)

C. “Base Flood Elevation (BFE)” means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

D. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

E. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

F. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:

1. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 6(4)(A) of this ordinance; and

2. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

3. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation; and

4. The enclosed area is not a “basement” as defined in this section.

G. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the
first floodplain management regulations adopted by the community.

H. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

I. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

J. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this 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.

K. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

L. “Five hundred (500) year flood” means a flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

M. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

N. “Flood insurance rate map (FIRM)” means the official map prepared as part of (but published separately from) the Flood
Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

O. “Flood insurance study (FIS)” means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

P. “Floodplain” means any land area susceptible to being inundated by water as a result of a flood.

Q. “Floodplain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, flood proofing and floodplain management regulations.

R. “Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

S. “Floodway” means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

T. “Floodway fringe” means those portions of the Special Flood Hazard Area outside the floodway.

U. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

V. “Historic structure” means any structure that is:

1. 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;

2. 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;

(3) 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,

(4) 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.

W. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of enclosed area below lowest floor are met.

X. “Maximum damage potential uses” means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

Y. “Minor projects” means small development activities (except for filling, grading and excavating) valued at less than $500.

Z. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

AA. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.

BB. “Recreational vehicle” means a vehicle which is:

(1) Built on a single chassis;
(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**CC.** “Routine maintenance of existing buildings and facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

1. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
2. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
3. Basement sealing;
4. Repairing or replacing damaged or broken window panes; or
5. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

**DD.** “Special flood hazard area (SFHA)” means the land within a community subject to the “base flood.” This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

**EE.** “Start of construction” means 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.

FF. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

GG. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

HH. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

1. 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.”

2. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.
II. “Variance” means a grant of relief by a community from the terms of the floodplain management regulations.

JJ. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

2. Statutory Authority, Findings of Fact, and Purpose.

A. The Legislature of the State of Iowa has in Iowa Code Chapter 414, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

B. Findings of Fact.

(1) The flood hazard areas of the City of Waukon 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.

(2) 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) This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

C. Statement of Purpose. It is the purpose of this section to protect and preserve the rights, privileges and property of the City of Waukon 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 2(B)(1) of this section with provisions designed to:

(1) Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
(2) Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

(2) Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

(3) Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

(4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.


A. Lands to Which Section Apply. The provisions of this section shall apply to all lands within the jurisdiction of the City of Waukon which are located within the boundaries of the Floodplain (Overlay) District as established in Section 5.

B. Rules for Interpretation of Floodplain (Overlay) District. The boundaries of the Floodplain (Overlay) District 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 Zoning Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this section.

C. 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 section and other applicable regulations which apply to uses within the jurisdiction of this section.

D. Abrogation and Greater Restrictions. It is not intended by this section to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provision of this section shall prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.
E. Interpretation. In their interpretation and application, the provisions of this section 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.

F. Warning and Disclaimer of Liability. The standards required by this section are considered reasonable for regulatory purposes. This section does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Waukon or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made there under.

G. Severability. If any section, clause, provision or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.

4. Administration.

A. Appointment, Duties and Responsibilities of Zoning Administrator.

(1) The Zoning Administrator is hereby appointed to implement and administer the provisions of this section and will herein by referred to as the Administrator.

(2) Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

a. Review all floodplain development permit applications to assure that the provisions of this section will be satisfied.

b. 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.

c. Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved
structures or (ii) the elevation to which new or substantially improved structures have been flood proofed.

d. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

e. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this section.

f. Submit to the Federal Insurance Administrator an annual report concerning the community’s participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

g. Notify the Federal Insurance Administration of any annexations or modifications to the community’s boundaries.

h. Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the Zoning Board of Adjustment of potential conflict.

i. Maintain the accuracy of the community’s Flood Insurance Rate Maps when:

   (i) Development placed within the Floodway (Overlay) District results in any of the following:

      (a) An increase in the base flood elevations, or

      (b) Alteration to the floodway boundary

   (ii) Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or

   (iii) Development relocates or alters the channel.
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j. Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

k. Perform site inspections to ensure compliance with the standards of this section.

l. Forward all requests for variances to the Zoning Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Zoning Board of Adjustment.

B. Floodplain Development Permit.

(1) 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.

(2) Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

a. Description of the work to be covered by the permit for which application is to be made.

b. Descriptions 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.

c. Location and dimensions of all buildings and building additions.

d. Indication of the use or occupancy for which the proposed work is intended.

e. Elevation of the base flood.

f. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be flood proofed.
g. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

h. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this section.

(3) 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 section 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 Zoning Board of Adjustment.

(4) 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 section. 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, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this section, prior to the use or occupancy of any structure.

5. Establishment of Floodplain (Overlay) District. The areas within the jurisdiction of the City of Waukon having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District (as well as those for the underlying zoning district). The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Allamakee County and Incorporated Areas, City of Waukon, Panels 19005C0250C and 0375C, dated September 18, 2020, which map is incorporated herein by this reference.

6. Standards for Floodplain (Overlay) District. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood
elevations and floodway data 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.

A. All development within the Floodplain (Overlay) District shall:

(1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Non-Residential Structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are
adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures.

(1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities elevated or flood proofed to a minimum of one (1) foot above the base flood elevation.
E. Factory-Built Homes.

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems.

(1) On-site wastewater disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation.
elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this section. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.

K. Accessory Structures to Residential Uses.

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.

b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.

e. The structure’s service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the base flood elevation.

f. The structure’s walls shall include openings that satisfy the provisions of Section 6(D)(1) of this section.

(2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of Section 6(E) of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 6(E) of this section regarding anchoring and elevation of factory-built homes.

M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.
N. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

7. Establishment of Variance Procedures.

A. Appointment and Duties of Board of Adjustment. A Zoning Board of Adjustment is hereby established which shall hear and decide (i) appeals and (ii) requests for variances to the provisions of this section, and shall take any other action which is required of the Board.

B. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Zoning Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Zoning Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

C. Variance. The Zoning Board of Adjustment may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the
provisions of this section 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 section, 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.

(4) All variances granted shall have the concurrence or approval of the Department of Natural Resources.

D. Hearings and Decisions of the Zoning Board of Adjustment.

(1) Hearings. Upon the filing with the Zoning Board of Adjustment of an appeal or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

(2) Decisions. The Board shall arrive at a decision on an appeal or variance within a reasonable time. In passing
upon an appeal, the Board may, so long as such action is in conformity with the provisions of this section, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a variance, the Board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in Section 7(D)(2)(b).

a. Factors Upon Which the Decision of the Zoning Board of Adjustment Shall be Based. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this section and:

(i) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(ii) The danger that materials may be swept on to other land or downstream to the injury of others.

(iii) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(iv) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(v) The importance of the services provided by the proposed facility to the City.

(vi) The requirements of the facility for a floodplain location.

(vii) The availability of alternative locations not subject to flooding for the proposed use.

(viii) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
(ix) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(x) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(xi) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(xii) 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.

(xiii) Such other factors which are relevant to the purpose of this section.

b. Conditions Attached to Variances. Upon consideration of the factors listed above, the Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this section. Such conditions may include, but not necessarily be limited to:

(i) Modification of waste disposal and water supply facilities.

(ii) Limitation of periods of use and operation.

(iii) Imposition of operational controls, sureties, and deed restrictions.

(iv) 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 section.

(v) Flood proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic
and hydrodynamic forces, and other factors associated with the regulatory flood. The Zoning Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

E. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.


A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this section, but which is not in conformity with the provisions of this section, may be continued subject to the following conditions:

(1) If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this section.

(2) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

(3) 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 section. 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.
B. Except as provided in Section 8(A)(2), any use which has been permitted as a variance shall be considered a conforming use.

9. Penalties for Violation. Violations of the provisions of this section or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevents the City of Waukon from taking such other lawful action as is necessary to prevent or remedy violation.

10. Amendments. The regulations and standards set forth in this section 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.

(Section 165.34 – Ord. 803 – Nov. 20 Supp.)
EDITOR’S NOTE

Ordinance No. 465, which adopted a new official zoning map for the City, adopted March 16, 1998, and amendments thereto 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. The following ordinances have been adopted amending the official zoning map.

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 TITLE. This chapter shall be known and may be cited and referred to as the “Subdivision Ordinance” of the City of Waukon, Iowa.

166.02 PURPOSE AND INTENT. The purpose of this chapter is to encourage orderly development of the Waukon community and to provide for the regulation and control of the extension of public improvements, public services, and utilities, the improvement of land, and the design of subdivisions, consistent with the comprehensive plan of the City. To this end, this chapter establishes minimum standards for the design, development and improvement of new subdivisions and procedures for review and approval of subdivision plans. This chapter is intended to provide for a balance between the land use rights of individual land owners and the economic, social, and environmental concerns of the public with respect to the use and development of land in and near the City. This chapter is intended to impose a subdivision plat requirement in many situations where State law does not or may not impose such a requirement.

166.03 AUTHORITY. These regulations are adopted pursuant to the authorization contained in Chapter 354 of the Code of Iowa, as amended, and this chapter shall be applied and interpreted consistently with the provisions of Chapter 354, except where this chapter imposes more stringent requirements.

166.04 TERRITORIAL APPLICATION. This chapter shall apply to subdivisions of and subdivision plats prepared for any land located within the corporate limits of the City and, in addition, any land located outside the corporate limits of the City, but within two miles thereof, which is included within the following description:
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The Southwest Quarter of Section 16, all of Section 17, all of Section 18, all of Section 19, all of Section 20, the West Half of Section 21, the West Half of Section 28, all of Section 29, all of Section 30, the West Half of Section 33, all of Section 32, and all of Section 31, all in Township 98 North, Range 5 West of the 5th P.M.; the West Half of Section 4, all of Section 5, all of Section 6, all of Section 7, and all of Section 8, all in Township 97 North, Range 5 West of the 5th P.M.; the Northeast Quarter of Section 12 and all of Section 1 in Township 97 North, Range 6 West of the 5th P.M.; and the Southeast Quarter of Section 23, all of Section 24, the East Half of Section 26, all of Section 25, the East Half of Section 35 and all of Section 36, all in Township 98 North, Range 6 West of the 5th P.M.; all of the above being in Allamakee County, Iowa.

Subdivision regulation with respect to land located outside of the corporate limits of the City as described above is hereby established under authority of Iowa Code Section 354.9. The City reserves the right, by subsequent ordinance, to expand its extraterritorial jurisdiction over subdivisions to the maximum extent permitted by law.

166.05 DEFINITIONS. As used in this chapter, unless the context clearly indicates otherwise, the definitions set forth below apply. In addition, the word “building” shall include the word “structure.”

1. “Aliquot part” means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

2. “Alley” means a permanent public service way or right-of-way designed to provide a secondary means of access to abutting property.

3. “Auditor” means the County Auditor of Allamakee County, Iowa.

4. “Auditor’s plat” means a subdivision plat required by the Auditor, prepared by a surveyor under the direction of the Auditor.

5. “Commission” means the Planning and Zoning Commission of the City.

6. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

7. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance, plat of survey or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for purposes of this chapter.
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8. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner’s property. Such purpose shall be in writing on the face of the final plat.

9. “Final plat” means the graphical representation of a subdivision of land prepared in the form which, if approved by the Council, will be filed and recorded with the County Recorder.

10. “Frontage road” means a local or collector street auxiliary to and located on the side of an arterial street for control of access and to collect and distribute traffic to abutting development.

11. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.

12. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

13. “Official plat” means either an auditor’s plat or a subdivision plat that meets the requirements of Iowa Code Chapter 354 and this chapter and has been filed for record in the offices of the County Recorder, Auditor and Assessor. Any plat which is a “subdivision plat” as defined in Iowa Code Section 354.2(17) and which was recorded in the offices of the County Recorder and Auditor prior to June 1, 1997, shall be deemed an “official plat” for purposes of this chapter.

14. “Parcel” means a part of a tract of land.

15. “Performance bond” means a guarantee in writing backed by substantial assets pledged by any financial institution, insurance company, or other party of substantial financial standing being bound with its principal for the payment of a sum of money or for the performance of some duty or promise required of the party being serviced and being of sufficient amount to secure to the City that the required subdivision improvement will be provided in accordance with this chapter.

16. “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.

17. “Preliminary plat” means the graphical representation of a subdivision of land, prepared by a registered land surveyor, indicating the proposed manner or layout of a subdivision, which is submitted to
the Commission for consideration and preliminary approval, and is used as the basis for drafting a final plat.

18. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement or lien interest.

19. “Street” or “road” means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place or other appropriate designation.

20. “Street, arterial” means an existing or proposed street which is or would be planned to carry through traffic on a continuous route through the City, and is identified as such on the City’s street plan map in the Comprehensive Plan.

21. “Street, collector” means a street intended to carry vehicular traffic from local or minor streets to arterial streets or traffic generators.

22. “Street, local” means a street used primarily for access to abutting property.

23. “Subdivider” means the proprietor of a tract or parcel of land who divides or proposes to divide such tract or parcel in such a manner as to cause or create a subdivision.

24. “Subdivision” means a tract or parcel of land divided or proposed to be divided, either by repeated or simultaneous divisions, so as to cause there to be three or more parcels within a single tract. The existence of a subdivision shall be determined without regard to any of the following:

   A. Whether the divisions are carried out by the same or successive owners of the tract or parcel,

   B. Whether any parcels resulting from the division are described by metes and bounds, and

   C. Whether any plats of survey have been or are proposed to be recorded for any of the parcels.

The existence of a subdivision shall be determined with reference to the smallest tract of which the land divided or to be divided is a part, taking into account any parcels created from the same tract by previous divisions but disregarding any tract previously created from part of the same tract. If the land to be divided constitutes a previously undivided tract, such tract shall be deemed the “smallest tract” for purposes of the
preceeding sentence. If contiguous tracts or parcels are subdivided simultaneously, all the land involved may be treated as a single subdivision. A “minor subdivision” is a subdivision resulting from (a) the simultaneous or repeated division of a tract into three parcels or, (b) the repeated division of a tract into three or four parcels within a five-year period. A “major subdivision” is a subdivision which is not a “minor subdivision.” Unless otherwise stated or the context clearly indicates otherwise, references to a “subdivision” in Section 166.15 shall mean a minor subdivision, references to a “subdivision” in Sections 166.12, 166.13 and 166.14 shall mean a major subdivision, and references to a “subdivision” in any other sections of this chapter shall mean both minor and major subdivisions.

25. “Subdivision plat” means the graphical representation of a subdivision of land or all of that part of a subdivision of land owned by the subdivider, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for Allamakee County, Iowa. Both “preliminary plats” and “final plats” are subdivision plats. A subdivision plat shall cover only land owned by the subdivider unless adjoining land owners are jointly subdividing their properties.

26. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Iowa Code Chapter 542B.

27. “Tract” means an aliquot part of a section or a lot within an official plat. For purposes of determining the existence of a subdivision, a tract located within a larger tract shall not be considered a part or division of the larger tract.

166.06 SUBDIVISION PLAT REQUIREMENT. Except as provided in this section, a subdivision plat shall be made and recorded when a subdivision is caused or created. Unless required by State law, a subdivision plat is not required when land is divided by any of the following:

1. A conveyance to a governmental entity or agency for public improvement purposes.

2. Any conveyance by a governmental entity or agency.

3. A plat of survey of land owned by a governmental entity or agency.

4. A boundary adjustment conveyance. For purposes of this section, a “boundary adjustment conveyance” means a transfer of ownership by the owner of a tract or parcel to the owner of an adjoining tract or parcel
of land located along the common boundary between their respective properties, provided that the total quantity of land thus transferred by present or former owners of either tract or parcel does not exceed 1500 square feet within any five year period; and, provided further, that no tract or parcel is by such transfer reduced in size in violation of the provisions of subsection 5 of Section 165.07 of the zoning ordinance.

(Ord. 474 - Oct. 98 Supp)

CHAPTER 166

166.07 COMPLIANCE AND ENFORCEMENT. The subdivision of land located within the territory to which this chapter applies shall be governed by this chapter and every subdivider of land shall comply with the requirements of this chapter. However, the provisions of this chapter shall apply to Auditor’s plats which are also subdivision plats only to the extent consistent with the provisions of Iowa Code Chapter 354. In addition to other remedies or penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. Recording Prohibited. No subdivision plat or any other document causing or creating a subdivision of land shall be recorded in the office of the Allamakee County Recorder, nor shall any such plat or subdivision have any validity in the absence of compliance with the provisions of this chapter, including approval or waiver of review by resolution of the Council as prescribed herein.

2. Public Improvements. If a subdivision plat or other document causing or creating a subdivision of land is recorded in violation of this chapter, no streets or other public use areas within the subdivided land shall be recognized by the City or deemed accepted by the Council for public use, nor shall any City funds be expended for public improvements, maintenance or other services within the subdivided land; nor shall any public funds be expended for such purposes with respect to subdivision plats approved in accordance with this chapter until all public improvements required as a condition of such approval have been installed, inspected and accepted by the Council unless otherwise provided in an agreement entered into pursuant to paragraph 166.24(1)(D) of this chapter.

3. Municipal Infraction. It is a municipal infraction for any proprietor to violate any provision of this chapter.

4. Action to Annul Plat. If a subdivision plat is filed and recorded in violation of this chapter, the Council, after filing written notice with the proprietors who have joined in the acknowledgment of the plat or their successors in interest, may institute a suit in equity in district court for annulment of the plat pursuant to Iowa Code Section 354.20.
166.08 AMENDMENTS. The subdivision regulations contained in this chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report its recommendation to the Council within thirty (30) days of receipt of the proposal. Prior to action on the proposed amendment, the Council shall give notice of the proposed amendment and hold a public hearing thereon. Any amendment to this chapter altering its territorial application shall be recorded with the Allamakee County Recorder.

166.09 VARIANCES AND WAIVER OF REVIEW.

1. Limited Variance. Where the strict application of standards or requirements established by this chapter would clearly cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from the standards or requirements imposed by this chapter as may be necessary to permit the reasonable development of the land while preserving the intent of these subdivision regulations. However, unless the right to review is waived as provided in subsection 2 of this section, the plat attachment requirements specified in subsections A, B, C, D and H of subsection 166.17(2) are not subject to variance.

2. Waiver of Right to Review. In appropriate cases where, because of its minimal scope, a proposed subdivision will have no appreciable impact on community development or the provision of public improvements or services, the Commission or the plat review agent may recommend and the Council may grant a complete waiver of the right to review a subdivision plat. A waiver of the right to review shall constitute the grant of a variance of all standards and requirements imposed by this chapter except the final plat attachments specified in subsections A, B, C, D and H of subsection 166.17(2) which shall not be subject to waiver if the plat includes any areas or improvements to be dedicated to the public.

3. Exceptions. In addition to the exceptions set forth in subsections 1 and 2 of this section, the provisions of Section 166.11 relating to fees and the provisions of Sections 166.12 and 166.15 relating to the filing of preliminary applications and plat copies shall not be subject to variance or waiver.

166.10 REVIEW BEFORE RECORDING. No plat of survey, conveyance or other instrument which, if recorded, would cause any division of any tract or
parcel shall be recorded in the office of the Allamakee County Recorder until it has been reviewed by the plat review agent of the City and the plat review agent has certified in writing that such instrument will not cause or create a subdivision for which a subdivision plat is required. The following procedures shall apply:

1. Submission to Plat Review Agent. The proprietor of the land affected by the instrument may submit the instrument to the plat review agent before delivery of the instrument to the Recorder. If the instrument is delivered to the Recorder without a certification by the plat review agent affixed thereto, the Recorder shall, by not later than the next business day, deliver the instrument to the plat review agent.

2. Determination by Plat Review Agent. The plat review agent shall, by the end of the second business day following receipt of the instrument, review the instrument and any relevant public records and determine whether or not the instrument would cause or create a subdivision for which a subdivision plat is required.

3. Written Decision. The decision of the plat review agent shall be in writing. If a subdivision plat is not required, the plat review agent shall so certify, either on the face of the instrument or by attaching a certification to the instrument, and shall promptly deliver the instrument to the Recorder. If a subdivision plat is required, written notification shall be delivered to the proprietor with the instrument.

4. No Fee. No fee shall be charged or collected for the determination by the plat review agent under this section.

5. Appeal. If the plat review agent determines that a subdivision plat is required, the proprietor may appeal the decision to the Council which shall either affirm or overrule the plat review agent’s decision.

This section shall not apply to subdivision plats presented for recording together with the resolution of the Council approving or waiving the right to review the subdivision plat as provided in this chapter.

166.11 FEES. A subdivision plat approval application fee, which shall not be refundable, shall be paid by the proprietor upon submission of any preliminary plat. The amount of the fees for major and minor subdivisions shall be determined by resolution of the Council. No action shall be taken by any City official regarding a subdivision approval application, nor shall an application or plat be considered filed, until the applicable fee is paid.
166.12 PRELIMINARY PLATTING PROCEDURE. Every proprietor seeking Council approval for a proposed subdivision plat shall file a preliminary plat in accordance with this section and other sections of this chapter applicable to preliminary plats. Preliminary platting procedure is as follows:

1. Pre-application Coordination. Prior to the filing of a preliminary plat the subdivider or agent of the subdivider shall consult with the City’s designated plat review agent for the purpose of receiving general information about any City plans, zoning regulations, or other factors so as to avoid unnecessary difficulty and time delays for the subdivider and facilitate the plat review. No formal plat or filing fee is required for this step. For simple plats a telephone contact may be all that is necessary. Copies of this chapter shall be furnished upon request to any potential subdivider and other interested persons.

2. Preliminary Plat Filed. The proprietor of any tract or parcel of land to be subdivided shall cause a preliminary plat to be prepared in conformity with the requirements of Section 166.16 of this chapter and shall file thirteen (13) copies of the plat with the Clerk. The proprietor or his or her agent shall also complete and file an application for preliminary subdivision plat approval, on a form supplied by the Clerk, and pay the subdivision plat approval application fee. The Clerk shall immediately transmit three (3) copies of the preliminary plat and application to the Commission and one (1) copy of the plat and application to each of the following: the City plat review agent, the City Engineer, the heads of the City Water and Sewer, Street, Fire, Police and Parks and Recreation Departments, and each electric, gas and telephone utility company serving the City.

3. Review.

A. The Clerk’s letter of transmittal to the utility companies shall request their review of the plat regarding utility locations and easements and the submission of their findings and recommendations to the Commission within fifteen (15) days of receipt.

B. The City plat review agent shall examine the plat to determine its compliance with the requirements of this chapter, the City’s comprehensive plan and other applicable regulations, and its conformity with sound subdivision practices, and shall, within fifteen (15) days of receipt of the plat, submit his or her findings and recommendations to the Commission.
C. The City Engineer shall also review the plat and submit any comments he or she may have to the Commission within fifteen (15) days of receipt of the plat.

4. Action by Commission. The Commission, as soon as possible after receipt of the report of the plat review agent, but not more than thirty (30) days thereafter, shall review the preliminary plat, consider the report and recommendations of the plat review agent, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and shall make a determination upon the preliminary plat as originally submitted or as modified by the subdivider. If the Commission does not act within thirty (30) days from receipt of the plat review agent’s report, the preliminary plat shall be deemed to be approved without conditions; provided, however, the subdivider may agree in writing to an extension of the time for action by the Commission not to exceed an additional sixty (60) days. The determination made by the Commission shall be in writing and shall state whether the preliminary plat is approved, conditionally approved or disapproved. In the alternative, the Commission may recommend waiver of the right to review as provided in subsection D, below.

A. Approval. Approval, without conditions, of a preliminary plat by the Commission shall be deemed the equivalent of approval by the Commission of a final plat. Any such unconditional approval of a preliminary plat by the Commission shall also set forth any recommendations with respect to variance of the requirements of this chapter in connection with such plat. However, the final plat attachments required under subsections A, B, C, D and H of subsection 166.17(2) are not subject to variance and the Commission shall not grant unconditional approval of a preliminary plat absent compliance with such requirements.

B. Disapproval. If a preliminary plat is disapproved, the Commission shall set forth in writing its reasons for disapproval. If a preliminary plat is disapproved, the subdivider may file a new preliminary plat in the same manner as the original preliminary plat or may, within six (6) months of such disapproval by the Commission, file an application for final plat approval with the Clerk as provided in Section 166.13.

C. Conditional Approval. If the Commission approves the preliminary plat subject to conditions, all conditions shall be set forth in writing. A decision by the Commission to conditionally approve a preliminary plat shall be reviewed by the Council
within thirty (30) days. Upon such review by the Council of the conditions imposed, the decision of the Commission shall be affirmed or modified by motion. If the conditions are modified, the Council shall specify the changes. If all conditions are eliminated by the Council upon its review, the preliminary plat shall be deemed to be approved without conditions, the same as if such action had been taken by the Commission as provided in subsection A of this subsection. Conditional approval of a preliminary plat shall constitute an authorization to proceed with the preparation of a final plat which satisfies the conditions imposed. If the subdivider elects to seek final approval by the Council of the plat without compliance with the conditions imposed, an application for final plat approval shall be filed with the Clerk within six (6) months as provided in Section 166.13.

D. Waiver of Review. Where the conditions described in subsection 2 of Section 166.09 are found to exist, the Commission may, in lieu of approval or disapproval of the preliminary plat, recommend that the right to review the plat be waived by the Council. Where such a recommendation is made by the Commission, the subdivider shall file an application for final plat approval with the Clerk within six (6) months as provided in Section 166.13.

Action by the Commission to approve, conditionally approve or disapprove a preliminary plat, or to recommend waiver of the right to review, shall be set forth in a resolution which shall contain, where applicable, the reasons for disapproval of the preliminary plat, all conditions imposed and any variances from the requirements of this chapter recommended by the Commission. Copies of such resolution, together with a copy of the Council’s motion modifying any conditional approval, if applicable, shall be attached to three copies of the preliminary plat. One copy of the plat and resolution shall be returned to the subdivider and the other copies retained by the Commission.

166.13 FINAL PLATTING PROCEDURE AND FINAL PLAT APPROVAL.
A subdivider desiring final plat approval by the Council shall file with the Clerk, on a form provided by the Clerk, an application for final plat approval. However, no such application shall be accepted or shall be deemed filed unless the subdivider has first complied with the preliminary platting procedure as set forth in Section 166.12. The application shall be accompanied by seven (7) copies of the final plat and all required attachments. Upon filing of the
application for final plat approval the following regulations and procedures shall apply:

1. Time Limits. An application for final plat approval must be filed with the Clerk within the following time limits after action by the Commission on the preliminary plat:

   A. If conditionally approved by the Commission and subdivider complies with conditions, eighteen (18) months.

   B. If conditionally approved and subdivider elects to seek final approval without compliance with conditions, six (6) months.

   C. If approved without conditions, six (6) months.

   D. If disapproved and subdivider elects to seek final approval without Commission approval, six (6) months.

   E. If waiver of right to review recommended by Commission, six (6) months.

If the subdivider fails to file the application for final plat approval within the applicable time limit, the action taken by the Commission on the preliminary plat shall be deemed null and void unless an extension of time has been applied for and granted by the Commission. If the action of the Commission is nullified in this manner, the subdivider’s application for final plat approval shall be returned without further action and the subdivider shall be obligated to again comply with the requirements of Section 166.12.

2. Action Without Commission Approval. If the preliminary plat was disapproved by the Commission or if the subdivider has elected, following conditional approval, to seek final plat approval without compliance with the conditions, the Clerk shall refer the application and final plat directly to the Council for action pursuant to subsection 6 of this section, together with a copy of the Commission resolution setting forth the action previously taken by the Commission.

3. Prior Commission Approval or Waiver. If the preliminary plat has previously been approved without conditions by the Commission or if the Commission recommended waiver of the right to review, the Clerk shall refer the application and final plat directly to the Council for action pursuant to subsection 6 of this section, together with a copy of the Commission resolution setting forth the action previously taken by the Commission.
4. Prior Conditional Approval. If the preliminary plat has previously received the conditional approval of the Commission, and the subdivider has not elected to seek Council approval without compliance with the conditions imposed, the Clerk shall transmit five (5) copies of the final plat and of all required attachments to the Commission for its final recommendation.

5. Action by Commission. The Commission shall, upon receiving the final plat, as soon as practicable but not more than thirty (30) days after the filing of the application for final plat approval, consider the final plat and make a determination by resolution whether to recommend approval or disapproval of the final plat by the Council. The Commission shall not recommend approval if all conditions previously imposed have not been satisfied. A recommendation of approval shall constitute a recommendation that the Council grant a variance for any requirements of this chapter not previously complied with. A copy of the Commission’s resolution setting forth its recommendation shall be promptly submitted to the Council.

6. Action by Council. Upon receipt of the resolution of the Commission as provided in the preceding subsection, but not later than sixty (60) days after the filing of the application for final plat approval, the Council shall, by resolution, approve the final plat, disapprove the final plat, or waive the right of the Council to review the final plat.

A. In the event a plat is disapproved by the Council, the resolution disapproving the plat shall state how the plat is objectionable. The resolution disapproving a plat may set forth the conditions upon which final approval would be given which may, without limitation, include the installation of designated public improvements or the filing of a satisfactory performance bond guaranteeing subsequent installation of any public improvements.

B. In the event the plat is found to be acceptable, the Council shall approve the same. Such approval shall constitute a variance as to any requirements of this chapter with which there has not been compliance. However, unless the right to review the plat is waived as provided in subsection 166.09(2), the plat attachment requirements specified in subsections A, B, C, D and H of subsection 166.17(2) are not subject to variance.

C. The Council may waive the right to review the plat in accordance with the provisions of Section 166.09.
D. If the Council approves the final plat or waives its right to review it, the Council’s resolution shall contain a general approval and acceptance of all land within the plat that is dedicated for public use. If the Council concludes that any land dedicated for street purposes shall not presently be open for public access for safety reasons, the resolution shall so state.

E. In all cases, a certified copy of the Council’s resolution shall be furnished to the subdivider.

7. Reconsideration by Council. If the Council disapproves a plat, the subdivider may, within one year from such disapproval, request reconsideration by the Council without the necessity of compliance with Section 166.12 of this chapter.

8. Recording of Plat. It shall be the responsibility of the subdivider to cause the recording of any plat which has been approved by the Council or as to which the right of review has been waived, together with the resolution of the Council, with the County Recorder. Satisfactory evidence of the recording of the plat and resolution shall be filed with the Clerk and the plat shall not be recognized as effective by the City until such proof of recording is received.

9. Assistance of Plat Review Agent. The Commission and the Council shall, in considering any final plat, request the comments of the City plat review agent concerning such final plat.

166.14 PLATS OUTSIDE CORPORATE LIMITS. The procedure for approval of preliminary and final plats of land outside of the corporate limits of the City but within the territorial application of this chapter shall be the same as set out in Sections 166.12 and 166.13, except that nine (9) copies of the preliminary plat shall be filed with the Clerk and the Clerk shall, in addition, refer one (1) copy to the county engineer and one (1) copy to the County Planning and Zoning Commission and request that their recommendations, if any, be submitted to the Commission. In such cases, the Commission shall makes its determination regarding the preliminary plat within forty-five (45) days after receipt of the report of the City’s plat review agent, but shall not act prior to receiving the recommendations of the County Planning and Zoning Commission unless such recommendations are not received by the Commission within fifteen (15) days of referral.

166.15 MINOR SUBDIVISION PROCEDURES. Minor subdivisions shall, except as otherwise provided in this section, be exempt from the plat review and approval procedure set forth in Sections 166.12, 166.13 and 166.14 of this
chapter, but the following procedures and requirements shall apply to minor subdivision plats:

1. Pre-application Coordination. Prior to filing a plat and approval application the proprietor or his or her agent shall consult with the City’s designated plat review agent for the purpose of receiving general information about any relevant City plans, zoning regulations, requirements of this chapter, and other factors so as to avoid unnecessary difficulty and delays and facilitate the plat review. No formal plat or filing fee is required for this step. For simple plats a telephone contact may be sufficient. Copies of this chapter shall be furnished upon request to any potential subdivider and other interested persons.

2. Plat Preparation. The proprietor of the tract or parcel of land to be subdivided shall cause a single plat to be prepared which complies with the requirements of both Section 166.16 and Section 166.17 of this chapter, including required attachments.

3. Application, Plat Copies and Fee. The proprietor or his or her agent shall complete and file with the Clerk an application for preliminary subdivision plat approval on a form supplied by the Clerk. Nine (9) copies of the proposed plat shall be filed with the application and the application fee shall also be paid. No application or plat shall be deemed filed until there is full compliance with this subsection.

4. Plat Review and Referral by Agent. The Clerk shall promptly refer the plat and application to the City’s designated plat review agent who shall review the plat to determine conformation with the City’s comprehensive plan, as amended, street and utility plans, zoning patterns and standards, addressing block plan, other development factors and the applicable provisions of this chapter. The review agent’s review of the plat shall be completed within ten (10) days of the filing of the plat and application and payment of the application fee. The review agent shall set forth his or her recommendations concerning the plat in writing and a copy shall be delivered to the plat proprietor or agent. Except as provided in subsection 5 of this section, the plat review agent shall at the same time refer the plat and application and the review agent’s recommendations to the Council for action at the next Council meeting pursuant to subsection 6 of this section.

5. Commission Consideration. The plat review agent shall have discretion to refer the plat and application and the agent’s recommendations to the Commission instead of to the Council. Referral to the Commission may be made whenever, in the judgment of the plat
review agent, the plat or its attachments disclose apparent or potential conflict or nonconformity with the City’s comprehensive plan, street and utility plans, zoning patterns or standards, addressing block plan, other development factors or the requirements of this chapter, or otherwise involve or suggest significant implications for city development requiring more extensive review or discussion, or negotiation with the subdivider. In the event of a referral to the Commission under this subsection, all of the procedures and requirements relating to major subdivisions set forth in subsection 166.12(4) and Section 166.13 shall become applicable, except that the filing of a final plat and an application for final plat approval shall not be required if the Commission approves the plat without conditions or recommends waiver of the right to review the plat.

6. Council Action. If the subdivision plat, application and the recommendations of the plat review agent are referred to the Council by the agent pursuant to subsection 4 of this section, the plat shall be considered and acted upon by the Council at the first regular Council meeting following the referral. The Council shall, by resolution, approve the plat, disapprove the plat or waive the right to review the plat.

A. If the Council approves the plat or waives the right to review it, the Council’s resolution shall contain an approval and acceptance of all land within the plat that is dedicated for public use. If the Council concludes that any land dedicated for street purposes shall not presently be open for public access for safety reasons, the resolution shall so state.

B. The approval of a plat by the Council shall constitute a variance as to any requirements of this chapter with which there has not been compliance. However, the Council shall not approve a plat absent compliance with the plat attachment requirements set forth in subsections A, B, C, D and H of subsection 166.17(2).

C. The waiver of the right to review by the Council shall also constitute a variance as to any requirements of this chapter with which there has not been compliance. However, if the plat contains areas or improvements to be dedicated to the public the right to review shall not be waived absent compliance with the plat attachment requirements set forth in subsections A, B, C, D and H of subsection 166.17(2).

D. If a plat is disapproved by the Council, the resolution shall state how the plat is objectionable and may set forth the
conditions upon which approval would be given which may, without limitation, include the installation of designated public improvements or the filing of a satisfactory performance bond guaranteeing subsequent installation.

7. Reconsideration. A subdivision plat which has been disapproved by the Council may be resubmitted directly to the Council for reconsideration within one year from the date of disapproval without the necessity of a new application and fee. The Council may delay action on the resubmitted plat in order to secure the recommendations of the plat review agent but shall, by resolution, approve, disapprove or waive the right to review such plat.

8. Certified Copy. In all cases, a certified copy of each Council resolution concerning a plat shall be furnished to the subdivider.

9. Recordation. Plats shall be recorded by the subdivider as provided in subsection 166.13(8).

10. Applicable Requirements. All design standards and other requirements set forth in Sections 166.18 through 166.24 of this chapter shall be applicable to minor subdivisions. The scale of the plat shall be as determined by the surveyor, subject to State law requirements.

166.16 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat and its attachments shall contain the following information:

1. Location Map. A location map showing:
   A. The subdivision name.
   B. An outline of the area to be subdivided.
   C. The existing streets and public or private utilities, if any, on adjoining property.
   D. North point and scale.
   E. Adjacent land use.

2. Preliminary Plat Map. A subdivision plat of the tract of land proposed to be subdivided drawn to the scale of fifty (50) feet to one inch (1) provided that if the resulting drawings would be over twenty-four inches (24) in the shortest dimension, a scale of one hundred feet (100) to one inch (1) may be used, said preliminary plat to show or include:
   A. Legal description, acreage and name of proposed subdivision. Reference shall be given to two section corners within the United States public land survey system in which the
land lies or, if the proposed plat is a subdivision of any portion of an official plat, two established monuments within the official plat.

B. Names and address of the owner, subdivider, builder, and engineer, surveyor, or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat, and names of adjacent property owners.

C. Location of existing lot lines, streets, public utilities, water mains, fire hydrants, sewers, drain pipes, culverts, natural drainage, bridges and buildings in the proposed subdivision.

D. Location and widths, other dimensions and names of existing and proposed streets and alleys.

E. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

F. Present and proposed easements showing locations, widths, purposes and limitations.

G. Lot boundary lines showing dimensions, bearings, angles and references to known lines or bench marks.

H. Layout of proposed blocks (if used) and lots, including the dimensions of each and the lot and block number in numerical order.

I. Contours at vertical intervals of not more than two feet (2') if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five feet (5') if the general slope is ten percent (10%) or greater.

J. The location of proposed sanitary sewer and water mains and laterals, including gate valves and fire hydrants.

K. The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures inside the proposed subdivision and all lands affected by the drainage outside of the subdivision, and necessary drainage easements.

L. North point and graphic scale.

M. Proposed street light locations.

N. Proposed streets, alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are to be set
aside for future development shall be assigned a progressive letter and shall have the proposed use clearly designated; provided, however, that a strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of practical use or service.

O. Sufficient information, including dimensions and angles or bearings, to accurately establish the boundaries of each lot, street and easement.

P. The boundaries and numbers of the City addressing blocks within the proposed subdivision in accordance with the Waukon Addressing Plan map on file in the City Clerk’s office.

3. Utilities. A statement concerning the location and size or capacity of all existing and proposed utilities.

4. Streets. The grade, type, material, dimensions and design of proposed streets, together with a cross-section of the proposed streets showing the roadway location, the type and width of surfacing, type of drainage and other improvements to be installed.

5. Restrictive Covenants. A summary description of any covenants or private restrictions to be applied to any land included within the proposed subdivision.

6. Agreements Regarding Improvements. The terms of any proposed agreements with the City pursuant to paragraph 166.24(1)(D) of this chapter relating to future construction of improvements.

166.17 FINAL PLAT REQUIREMENTS. The final plat shall be clearly and legibly drawn with India ink on a reproducible mylar. It shall conform substantially to the preliminary plat, except for changes to satisfy any conditions imposed, but may cover only a portion of the land included within the preliminary plat if such portion is in compliance with this chapter. The final plat shall show or include the following information in addition to the information required for the preliminary plat:

1. Final Plat Map. The final plat map shall show and include the following:

   A. The title under which the subdivision is to be recorded, which shall be a succinct name that is unique among subdivision plats in Allamakee County.

   B. The linear dimensions in feet and decimals of a foot of the subdivision boundaries, lot lines, streets, alleys and easements.
These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.

C. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new street names are needed, they shall be unique within the City. Street names may be required to conform to the city comprehensive plan, and shall be numbered consistently with the requirements of Chapter 150. The Council shall be the final authority for determining street names.

D. Location, type, materials and size of all monuments and markers including all U.S., county or other official bench marks.

E. A sealed certification of the accuracy of the plat by the registered land surveyor who prepared the final plat.

2. Final Plat Attachments. The following documents shall be attached to or shall accompany a final plat:

A. 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 acknowledgment of deeds. The statement by the proprietors shall include a dedication to the public of all lands within the plat that are designated for streets, alleys, utility or other easements, parks, open areas, school property, or other public use.

B. A statement from the mortgage holders and all 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, together with a duly executed and acknowledged release of such mortgages or liens with respect to any areas proposed to be dedicated to the public. In lieu of such written consents and releases by mortgage holders or lienholders, an affidavit and bond as provided by Iowa Code Section 354.12 may be submitted with the final plat.

C. 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 purposes of this subsection.

D. A certificate of the County Treasurer that the land included within the proposed plat is free from certified taxes and certified assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Iowa Code Section 354.12. If the plat includes no land set apart for streets, alleys, parks, open areas, school property or other public use other than utility easements, the certificate of the Treasurer need only state that the land is free from certified taxes other than certified special assessments.

E. A complete statement of restrictions of all types that will run with the land and become covenants in all conveyances of lots in the subdivision.

F. Profiles, typical cross-sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.

G. A certificate by the proprietor’s engineer that all required improvements have been completed in accordance with City specifications, or that a performance bond guaranteeing completion of all required improvements has been approved by the City Attorney and filed with the Clerk, or that an agreement relating to the future construction of the required improvements has been entered into between the City and the subdivider pursuant to paragraph 166.24(1)(D) of this chapter. If such an agreement exists, a copy of it shall also be attached to the final plat.

H. A proposed resolution for use by the Council which either approves the final plat or waives the right to review.

166.18 DESIGN STANDARDS FOR STREETS AND ALLEYS. Street and alley design standards for new subdivisions shall be as follows:

1. General Requirements.

   A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.

   B. New plats shall make provisions for continuation and extension of arterial and collector streets and roads, and the
extension of local streets where judged necessary by the Commission or the Council.

C. Alleys shall be provided where judged necessary by the Commission or the Council.

D. Where parkways or special types of streets are proposed, the Commission or the Council may apply special standards for the design of such parkways or streets.

E. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing streets.

F. Half streets shall be prohibited except where essential to the reasonable development of the subdivision and adjoining tract, and where the Commission or the Council finds it reasonable to require dedication of the other half when the adjoining tract is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

2. Right-of-way. Minimum rights-of-way shall be provided as follows:

A. Arterial Streets -- 66 feet minimum. Greater width may be required in accordance with City, County or State plans.

B. Collector streets -- 66 feet.

C. Residential streets -- 66 feet.

D. Cul-de-sacs -- 120 feet in diameter.

E. Alleys -- 20 feet.

3. Surface Width. Minimum width of surfacing to be provided shall be as follows:

A. Arterial streets -- 45 feet, including curb and gutter.

B. Collector and local streets -- 31 feet, including curb and gutter.

C. Cul-de-sacs -- 100 feet in diameter, including curb and gutter.

D. Alleys -- 20 feet.

4. Relationship to Existing Streets.

A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public
convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

B. The arrangement of streets in a subdivision shall either provide for the continuation from appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Commission or the Council to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

5. Future Streets and Planned Streets.

A. Where the plat submitted covers only a part of a larger tract of land owed by the same proprietor, a sketch of the prospective future street system for the adjacent land shall be furnished, and the street system of the part submitted shall be considered in conjunction with the projected street system of the part not submitted.

B. Where the lots to be created by the subdivision are larger than ordinary building lots, the subdivision shall be so designed as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

C. Plats containing unplatted strips or private streets controlling access to public ways will not receive approval.

6. Minor Streets. Minor streets shall be so planned as to discourage through traffic.

7. Frontage Streets.

A. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission or the Council may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

B. Where a subdivision borders on or contains a stream corridor, or utility or highway right-of-way, the Commission or the Council may require a street approximately parallel to and on each side of such corridor or right-of-way, at a distance suitable
for the appropriate use of the intervening land, such as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

8. Street Geometrics.

A. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

B. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

C. Cul-de-sacs shall not exceed 600 feet in length.

D. Proposed streets shall be adjusted to the contour of the land where possible so as to produce usable lots and streets of reasonable gradient.

E. No dead-end streets or alleys, other than cul-de-sacs, will be permitted except at subdivision boundaries.

F. Arterial and collector streets in a subdivision shall extend through the boundaries thereof.

G. Intersection of more than two streets at a point shall not be permitted.

H. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the Commission or the Council shall determine for special cases.


A. Insofar as in practical, acute angles between streets at their intersection are to be avoided.

B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

C. Property lines at street intersections shall be rounded with a radius of twenty (20) feet, or of a greater radius where the Commission or the Council may deem it necessary. The
Commission or the Council may permit comparable cutoffs or chords in place of rounded corners.

10. Street Names. Streets that are in alignment with other already existing streets shall bear the name of the existing streets. The proposed names of new street shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council.

11. Street Grades.
   A. Street grades, wherever feasible, shall not exceed five percent (5%), with due allowance for reasonable vertical curves.
   B. No street grade shall be less than one-half of one (1) percent.

   A. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
   B. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the Commission or the Council.

166.19 DESIGN STANDARDS FOR BLOCKS. No block may be more than one thousand (1000) feet or less than four hundred forty (440) feet in length between the center lines of intersecting streets, except that these limits may be waived by the Council where extraordinary conditions unquestionably justify a departure. Block layout and length shall conform to the extent practicable to the Waukon Addressing Plan map on file in the Clerk’s office.

166.20 DESIGN STANDARDS FOR LOTS. Lot design standards shall be as follows:

1. The lot size, width, depth, shape and orientation shall be appropriate for the location and terrain of the subdivision and for the type of development and use contemplated.

2. Minimum lot dimensions and sizes shall conform to the requirements of the zoning ordinance applicable to the zoning district in which the subdivision is or will be located, subject to the following:
A. Residential lots where not served by public sewer shall not be less than 120 feet wide nor less than one acre in area.

B. Depth and width of lots reserved or platted for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

3. The subdivision shall be designed to provide each lot with satisfactory access, by means of a public street, to an existing or planned public street.

4. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

5. All lots shall abut on a public street. Corner lots which abut on an arterial or collector street shall have minimum radius of twenty (20) feet at the intersection.

6. Side lines of lots shall approximate right angles to straight street lines and radial angles to curved street lines except where a variation will provide better lot layout.

166.21 DESIGN STANDARDS FOR SIDEWALKS. The design standards for sidewalks in subdivisions are those set forth in Chapter 136 of this Code of Ordinances.

166.22 DESIGN STANDARDS FOR EASEMENTS. Easements shall be provided as follows:

1. Lot Line Easements. Easements for general utility purposes not less than ten (10) feet in width shall be provided along the rear lot line of each lot and along such other lot lines as may be required for public and private utilities, or for drainage purposes. If for any reason the property adjoining a lot subject to an easement required under this subsection is not subject to a similar easement, the easements required by this subsection shall be not less than twenty (20) feet in width.

2. Major Utilities and Drainage Easements. Easements of greater than twenty (20) feet in width may be required for trunk lines, pressure lines, open drainage courses and retention ponds or high voltage lines, and shall be provided as determined by the utility or the Council.
3. Utility Easements Generally. Unless otherwise clearly indicated in the plat, all designated utility easements shall convey to the City, its successors and assigns, the perpetual right within the designated easement area to construct, reconstruct, install, operate, maintain and remove sanitary sewers, storm sewers, water mains, and electric, telephone, gas and cable television lines consisting of above or below ground pipes, conduits, cables, poles, wires, anchors and necessary appurtenances, including the right to trim or remove vegetation within such easement area where necessary to secure a clearance of not less than four (4) feet from wires or poles, together with the right to extend to any telephone, gas, telegraph, cable television, electric, or other private utility company, the right to use, separately or jointly with the City, the areas included in the easement for the purposes above enumerated.

4. Natural Drainage Easements. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided and dedicated to the City a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, together with such additional width as may be necessary for purposes of access, construction, widening, deepening, sloping, improving, maintaining or protecting the stream or drainage course, and for storm water retention. The subdivider shall provide for adequate drainage of the area of the proposed subdivision in a manner acceptable to the City and consistent with natural drainage patterns and City drainage plans, policies and ordinances. All plats shall show the nature of and the boundary lines of any areas or facilities planned or required for the retention of water runoff from the property being platted.

166.23 PLAT MARKERS AND SURVEY MONUMENTS. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the City. The markers shall be of such material, size and length as may be approved by the City.

166.24 IMPROVEMENTS REQUIRED.

1. Completion of Improvements. All required improvements shall be installed and constructed in accordance with the specifications established by the Council by ordinance or otherwise and under the supervision of the Council and its agents and to its satisfaction. The specific location, capacity and timing for the construction and placement of required improvements shall be determined by the Commission in the preliminary platting process unless subsequently modified by the Council. The subdivider shall install and construct all improvements
required by this chapter prior to final approval of the subdivision plat by the Council unless one of the following applies:

A. The Council waives its right to review the plat.

B. A variance from the requirements of this section is granted by the Council in granting final approval for the plat.

C. Prior to final action by the Council on the subdivision plat or prior to any reconsideration thereof following disapproval, the subdivider has, with the approval of the Council, secured a performance bond with corporate surety guaranteeing completion of all required improvements within one year, and such bond has been approved by the City Attorney and filed with the Clerk.

D. Prior to final action by the Council on the plat, or prior to any reconsideration thereof by the Council following disapproval, the City and the subdivider have entered into an agreement which, in the opinion of the Council, provides adequate assurance that all required improvements will be constructed within a reasonable time and establishes a funding mechanism for the cost of such improvements. Such an agreement may include provisions for the establishment of an escrow fund whereby some portion of the proceeds from future lot sales may be reserved and used for construction costs, and/or for the use of special assessments, and such other terms as to which the parties may agree. However, such an agreement shall not permit the delay of any required water and sewer utility improvements which may be delayed until after final plat approval only pursuant to paragraph C of this subsection relating to performance bonds. This paragraph does not create any duty on the part of the City to enter into an agreement of the type authorized herein.

2. Street Grades. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Commission after receiving the report and recommendations of the City Engineer.

3. Street Surfacing. All streets shall be surfaced after the new road grade has been set for at least one winter and spring in accordance with the following requirements:

A. Collector and Local Streets:

Alternate 1: Base — Prepared Earth
Surface — 6 inch Portland Cement Concrete
Alternate 2: Sub-base — 4 inch Granular Aggregate  
Base — 4 inch Asphalt Treated Aggregate  
Surface — 2 inch Type B Asphalt Concrete Mat

Alternate 3: Base — 10 inch Graded & Rolled Stone  
Surface — 2 ½ inch Type B Asphalt Concrete Mat

Alternate 4: Other suitable designs of either Portland Cement  
or Asphalt Concrete if first approved by the Council.

Back to back of curb dimension shall be 31 feet minimum, except  
for cul-de-sacs which shall have a minimum diameter of 100 feet.

B. Arterial Streets:

Alternate 1: Base — Prepared Earth  
Surface — 6 ½ inch Portland Cement Concrete

Alternate 2: Sub-base — 4 inch Granular Aggregate  
Base — 6 inch Asphalt Treated Aggregate  
Surface — 2 inch Type B Asphalt Concrete Mat

Alternate 3: Sub-base — 4 inch Granular Aggregate  
Base — 8 inch Graded & Rolled Stone  
Surface — 2 inch Type B Asphalt Concrete Mat

Alternate 4: Other suitable designs of either Portland Cement  
or Asphalt Concrete if first approved by the Council.

Back to back of curb dimension shall be 45 feet minimum.

4. Curb and Gutter. Curb and gutter shall be required on all new  
streets which are a continuation of streets with curb and gutter. All curb  
and gutter shall be constructed to the grade approved by the Commission  
after receiving the report and recommendations of the City Engineer.  
All curb and gutter shall be a Portland Cement concrete six inch by six  
inch barrier curb with twenty-four inch integral gutter.

5. Sidewalks. Sidewalks shall be constructed, when required by and  
in accordance with the sidewalk standards specified in Chapter 136 of  
this Code of Ordinances, across the street frontage of all lots included  
within the subdivision; provided, however, that variances may be
approved pursuant to Section 166.09 of this chapter for those areas where it is not practical or necessary to place sidewalks.

6. Water Mains and Service Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot within the subdivision, with a service line installed to the property line of each lot, in accordance with the standards and procedures specified in Chapter 90 of this Code of Ordinances.

7. Sanitary Sewer Mains and Building Drains. Where a public sanitary sewer main is reasonably accessible, the subdivider shall connect with such main and provide a sanitary sewer connection for each lot within the subdivision, with building sewers installed to the property line of each lot, in accordance with the standards and procedures specified in Chapter 96 of this Code of Ordinances.

8. Park Land. If recommended by the Commission and required by the Council, land within the subdivision shall be reserved for public park and recreation purposes, but such reservation shall not exceed ten percent of the gross area of the subdivision. Such park and recreation land shall be located so as to be coordinated with other lands which are or may be available for inclusion as a part of a single neighborhood park. No parcel of land reserved for such purpose shall be less than fifteen thousand square feet in area. The dedication of such land to the public for such purposes may be required, with or without compensation by the City, or such land may be reserved and an option granted to the City to acquire the same within three years from the date of recording of the plat.

9. Storm Sewer and Land Drainage. Existing storm sewer mains shall be extended into the new subdivision areas where drainage conditions make it feasible to do so. Where storm sewer mains do not exist on adjacent property, or it is not feasible to extend the same into the new subdivision, the runoff from the new subdivision shall be accommodated by whatever other means may be necessary and practical, including open water ways, retention ponds or other devices. The development of the subdivision shall be accompanied by the necessary site grading and storm water disposal so as not to create on-site ponding or nuisance problems, nor the creation of drainage or flooding problems on adjacent land. The nature, location and specifications for storm sewer mains and other drainage improvements shall be determined on a case by case basis following review and recommendations by the City Engineer.
10. Street Lights. The location and number of street light installations shall be determined on a case by case basis, after review and recommendations by the electric utility. Street light poles and fixtures shall be provided by the subdivider if different from the standard installation by the utility company. Street light wiring shall be placed underground for new residential subdivisions unless determined impractical or unfeasible by the electric utility.

166.25 AUDITOR’S PLATS.

1. An auditor’s plat, prepared pursuant to Iowa Code Chapter 354 and filed with the Clerk pursuant to Iowa Code Chapter 354, shall be exempt from the requirements of this chapter except for this section.

2. If the auditor’s plat conforms to the requirements of Iowa Code Chapter 355, the Council shall, within sixty days of the date of filing, approve the plat by resolution and certify the resolution to be recorded with the plat.

3. The resolution approving the auditor’s plat shall state whether the lots within the auditor’s plat meet the standards and conditions established by this chapter for subdivision lots.

4. The approval of an auditor’s plat by the Council shall not impose any liability upon the City to accept dedication of any public use areas within the land included in the plat nor shall such approval impose any liability on the City to install or maintain any public improvements or utilities within the platted area; provided, however, that the Council may, at its option, in the approving resolution, accept the dedication of any areas designated for public use.

5. Approval of an auditor’s plat by the Council shall not constitute a waiver of the requirements of this chapter.

166.26 PLAT REVIEW AGENT. The Zoning Administrator shall serve as the plat review agent. In such capacity, this officer shall perform all duties assigned to the plat review agent in this chapter and shall, in general, administer and enforce the provisions of this chapter. An assistant plat review agent shall be appointed by the Mayor and approved by the Council, who shall perform such duties in the absence of the plat review agent.