CHAPTER 1

CODE OF ORDINANCES

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

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

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

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.

2. "City" means the City of Independence, Iowa.

3. "Clerk" means the city clerk of Independence, Iowa.

4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).

5. "Code of Ordinances" means the Code of Ordinances of the City of Independence, Iowa.

6. "Council" means the city council of Independence, Iowa.

7. "County" means Buchanan County, Iowa.

8. "May" confers a power.

9. "Measure" means an ordinance, amendment, resolution or motion.

10. "Must" states a requirement.

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

12. "Ordinances" means the ordinances of the City of Independence, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

18. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.

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

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

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

(Code of Iowa, Sec. 364.1)

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

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the

pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

1.14 STANDARD PENALTY. 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 sixty-five dollars ($65.00) but not to exceed six hundred twenty-five dollars ($625.00). 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])

[The next page is 9]

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties
2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of Independence, 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 Council Members elected at large and one Council Member from each of five wards as established by this Code of Ordinances, elected for overlapping terms of four years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE**: Ordinance No. 2.1-6-75 adopting a charter for the City was passed and approved by the Council on June 10, 1975.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 3

BOUNDARIES

3.01 Division Into Wards **3.02 Precincts**

3.01 DIVISION INTO WARDS. The City is divided into five (5) election wards, as follows:

1. Ward One. Ward 1 includes all of the City lying north of 1st Street East and east of the following described line:

Beginning at the intersection of 1st Street East and 7th Avenue NE, thence north along the centerline of 7th Avenue NE to centerline of 6th Street NE, thence east along the centerline of 6th Street NE to the centerline of 8th Avenue NE, thence north along the centerline of 8th Avenue NE to the centerline of 14th Street NE, thence continue north along the centerline of Kentucky Avenue to a point 33 feet east of the SE corner of Lot 4 of Clear View Addition of the City of Independence located in the Northeast ¼ of the Southeast Quarter of Section 27, Township 89 North, Range 9 West of the 5th P.M., thence west 660 feet, thence north to the centerline of 206th Street, thence east to the centerline of Kentucky Avenue, thence north to the north City Limits line.

Excluding: Beginning at the intersection of 1st Street East and 8th Avenue NE, thence north along the centerline of 8th Avenue NE to the centerline of 2nd Street NE, thence east along the centerline of 2nd Street NE to the centerline of 9th Avenue NE, thence north along centerline of 9th Avenue NE to the centerline of 3rd Street NE, thence east along the centerline of 3rd Street NE to the centerline of 15th Avenue NE, thence south along the centerline of 15th Avenue NE to the centerline of 1st Street East, thence west along the centerline of 1st Street East to the point of beginning.

2. Ward Two. Ward 2 includes all that part of the City lying south of 1st Street East and east and north of the centerline of the Wapsipinicon River.

And including: Beginning at the intersection of 1st Street East and 8th Avenue NE, thence north along the centerline of 8th Avenue NE to the centerline of 2nd Street NE, thence east along the centerline of 2nd Street NE to the centerline of 9th Avenue NE, thence north along centerline of 9th Avenue NE to the centerline of 3rd Street NE, thence east along the centerline of 3rd Street NE to the centerline of 15th Avenue NE, thence south along the centerline of 15th Avenue NE to the centerline of 1st Street East, thence west along the centerline of 1st Street East to the point of beginning.

3. Ward Three. Ward 3 includes all that part of the City lying south of 1st Street West, west and south of the centerline of the Wapsipinicon River and east and south of the following described line:

Beginning at the intersection of 1st Street West and 8th Avenue SW, thence south along the centerline of 8th Avenue SW to the centerline of 6th Street SW, thence west along the centerline of 6th Street SW to the centerline of 9th Avenue SW, thence south along the centerline of 9th Avenue SW to the centerline of 9th Street SW, thence west to the Southwest corner of the Northwest ¼ of the Southwest ¼ of Section 4, Township 88 North, Range 9 West of the 5th P.M. (the Northwest corner of Census Block 1059), thence south to the centerline of Bland Boulevard SW, thence east to the centerline of 6th Avenue SW/Jackson Avenue, thence south 1,754.32 feet along 6th Avenue SW/Jackson Avenue, thence west 236.24 feet, thence north 432.97 feet, thence follow the City Limits line west to the West City Limits line (the northwest corner of the Independence Municipal Airport property).

4. Ward Four. Ward 4 includes all that part of the City lying north of 1st Street East, east of the centerline of the Wapsipinicon River and west of the following described line:

Beginning at the intersection of 1st Street East and 7th Avenue NE, thence north along the centerline of said 7th Avenue NE to centerline of 6th Street NE, thence east along the centerline of said 6th Street NE to the centerline of 8th Avenue NE, thence north along the centerline of said 8th Avenue NE to the centerline of 14th Street NE.

5. Ward Five. Ward 5 includes all that part of the City lying north of 1st Street West and west of the centerline of the Wapsipinicon River, and all of said corporation lying south of 1st Street West and west of the following described line:

Beginning at the southwest corner of the Northwest ¼ of the Southwest ¼ of Section 4, Township 88 North, Range 9 West of the 5th P.M. (the Northwest corner of Census Block 1059), thence east to the intersection of 9th Street SW and 9th Avenue SW, thence north along the centerline of 9th Avenue SW to the centerline of 6th Street SW, thence east along the centerline of 6th Street SW to the centerline of 8th Avenue SW, thence north to the centerline of 1st Street W.

3.02 PRECINCTS. Each ward referenced in this chapter is comprised solely of each precinct.

(Ch. 3 – Ord. 2011-417 – Oct. 11 Supp.)

[The next page is 15]

CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties
4.04 Civil Citations
4.05 Alternative Relief
4.06 Criminal Penalties

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

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

4.02 ENVIRONMENTAL VIOLATION. A municipal infraction 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, plus court costs:

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

1. Standard Civil Penalties.

   A. First Offense – Not to exceed $750.00

   B. Each Repeat Offense – Not to exceed $1,000.00

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

2. Special Civil Penalties.

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

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

(1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

(2) The City is notified of the violation within 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.

7. The penalty for failure to appear in court.

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

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

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

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

4.06 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])

[The next page is 21]

CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings
5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts

5.01 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 Independence as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

C. City Manager

D. Members of all boards, commissions or bodies created by law.

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, 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[3a])

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (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[3i])

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars ($1500.00) 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[3l])

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[3m])

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

1. Appointment. By appointment, following public notice, by the remaining members of the Council. 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. 2014-457 – Oct. 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)

[The next page is 29]

CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition
6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than twenty-five (25) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

[The next page is 35]

CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The City Manager shall submit the completed budget proposal to the Council no later than February 15 of each year.

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

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

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

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

6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the City Manager 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 City Manager and at the City library.

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.

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

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

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

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

[The next page is 45]

CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose
8.02 Definitions
8.03 Period of Partial Exemption
8.04 Amounts Eligible for Exemption
8.05 Limitations
8.06 Applications
8.07 Approval
8.08 Exemption Repealed
8.09 Dual Exemptions Prohibited

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 and distribution centers.

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.

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. "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.

5. "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

and distribution centers 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 (30) 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

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
130-1290	12-3-90	Independence Urban Renewal Area
193-0794	7-25-94	1994 Addition to Independence URA
203-0395	3-13-95	1995 Addition to Independence URA
226-1196	11-12-96	1996 Addition to Independence URA
320-0902	9-23-02	2002 Addition to Independence URA
321-1102	11-25-02	2002 Addition to Independence URA
322-1202	12-23-02	2002 Addition to Independence URA
329-0503	5-12-03	1996 Addition to Independence URA
335-1203	12-22-03	2003 Addition to Independence URA
400-0809	8-24-09	2009 Addition to Independence URA

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 10

URBAN REVITALIZATION

10.01 REVITALIZATION AREA ESTABLISHED. In accordance with Chapter 404 of the Code of Iowa (the "Act"), the following area is designated as a revitalization area under the Act and shall be known as the Independence Urban Revitalization Area:

1. Parcel 1.

   Commencing at the NE corner of the NW fractional ¼ of Section 5, T-88N, R-9W; thence S 0º28' W along the east line of the NW fractional ¼, 381.00 feet; thence S 90º00' W, 53.42 feet to the point of beginning; thence continuing S 90º00' W, 631.58 feet; thence N 0º28' E, 348.00 feet to the south right-of-way line of U.S. Highway 20; thence N 90º00' E, along said right-of-way, 477.60 feet; thence S 41º21' E, 231.65 feet; thence S 0º38' W, 174.12 feet to the point of beginning.

2. Parcel 2.

   The south 535 feet of the East ½ of the East ½ of the Southwest ¼ of the Southwest ¼ of Section 33, Township 89 North, Range 9 West of the 5th P.M., Buchanan County, Iowa, except public road.

[The next page is 71]

CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments
15.04 Compensation
15.05 Voting
15.06 Veto Power

15.01 TERM OF OFFICE. The Mayor is elected for a term of four years.

(Code of Iowa, Sec. 376.2)

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, and supervise all City officers and departments of the City. However, if there is a duly appointed and/or acting City Manager under the provisions of this Code of Ordinances, the Mayor shall not exercise any of the powers and duties assigned to the City Manager. The Mayor shall not have supervisory control over the City Manager at any time.

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

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

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

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

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

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

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

5. Reports to Council. Make such oral or written reports to the Council as required and make recommendations suitable for Council action.

6. Contracts. Sign contracts on behalf of the City when necessary.

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

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. City Attorney
3. Library Board of Trustees
4. Utility Board of Trustees

5. Parks and Recreation Advisory Committee
6. Planning and Zoning Commission
7. City Council Committee members

(Ord. 2013-451 – Feb. 14 Supp.)

15.04 COMPENSATION. The salary of the Mayor is eight thousand dollars ($8,000.00) per year, payable in twelve (12) monthly installments.

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

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

(Code of Iowa, Sec. 372.4)

15.06 VETO POWER. The Mayor has veto power, pursuant to Subsection 15.02(4) over the Council's appointment of the City Manager. Said veto, however, is subject to the Council's power to override as set forth in Subsection 17.03(2).

CHAPTER 16

MAYOR PRO TEM

16.01 Appointment
16.02 Powers and Duties
16.03 Voting Rights
16.04 Compensation

16.01 APPOINTMENT. The Mayor shall appoint a member of the Council to serve as Mayor Pro Tem. 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 appoint, employ or discharge from employment, officers or employees that the Mayor has the power to appoint, employ or discharge without the approval of the Council.

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

16.03 VOTING RIGHTS. The Mayor Pro Tem shall have the right to vote as a member of the Council and retains all of the powers of a Council Member.

(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

CITY COUNCIL

17.01 Number and Term of Council
17.02 Powers and Duties
17.03 Exercise of Power
17.04 Council Meetings
17.05 Appointments
17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of two Council Members elected at large and one Council Member from each of five wards as established by the Code of Ordinances.

1. Term of Ward Council Members. The Council Members from the odd-numbered wards shall stand for election every four years, and the Council Members elected from even-numbered wards shall likewise be elected for a term of four years, which four-year terms shall commence two years after the election of the Council Members from the odd-numbered wards.

2. Term of At-Large Council Members. One at-large Council Member shall be elected at the same time as the election is held for the Mayor and Council Members from the odd-numbered wards. The other at-large Council Member shall be elected at the same time as the elections are held for the Council Members from even-numbered wards.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

8. Council Committees. Confirm Mayor's appointment of City Council Committee members. The City Council shall govern and enforce the City of Independence City Council Committees Structure, Responsibilities, and Operational Guidelines. ***(Ord. 2013-450 – Feb. 14 Supp.)***

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

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

1. Action by Council. Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars ($100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that 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 14 days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

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

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.

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

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

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

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

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

5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Manager
2. City Clerk
3. Zoning Board of Adjustment

17.06 COMPENSATION. The salary of each Council member is fifty dollars ($50.00) for each meeting of the Council attended.

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

[The next page is 83]

CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures
18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve at the discretion of the Council. The Clerk shall receive such compensation as established by resolution of the Council.

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

18.02 POWERS AND DUTIES: GENERAL. The Clerk, or in the Clerk's absence or inability to act, the Deputy Clerk, has the powers and duties as provided in this chapter, this Code of Ordinances and the law. The office of the City Clerk shall be under the general supervision and control of the City Manager.

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

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

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

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

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

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

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having 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 all measures establishing any zoning district, building lines, or fire limits and a plat showing the district, lines, or limits to the recorder of the County containing the affected parts of the City.

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections in accordance with Chapter 376 of the *Code of Iowa*. ***(Ord. 2014-457 – Oct. 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 "SEAL" and around the margin of which are the words "CITY OF INDEPENDENCE, IOWA."

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer

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

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.

2. Record of Fund. Keep the record of each fund separate.

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

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

5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.

6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.

7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Provide Legal Opinion
20.05 Attendance at Meetings
20.06 Prepare Documents
20.07 Other Duties
20.08 Representation of City Employees

20.01 APPOINTMENT AND COMPENSATION. The City Attorney shall be appointed by the Mayor, subject to Council approval, and 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 the legal advisor 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, provided the underlying legal action is authorized by the Council or City Manager or is in defense of an action against the City.

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

20.04 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a legal opinion on City contracts, documents and all questions of law relating to City matters submitted by the Mayor, the Council as a whole or the City Manager. Such advice or legal opinion shall be reported directly to the City Manager and shall also be in writing and filed with the City Clerk.

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

20.05 ATTENDANCE AT MEETINGS. The City Attorney shall attend all regular meetings of the Council, unless excused by the City Manager, and may attend meetings of the various boards and commissions and special meetings of the Council when specifically requested to attend by the City Manager or Mayor.

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

20.06 PREPARE DOCUMENTS. The City Attorney shall, upon request of the City Manager or Mayor, 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])

20.07 OTHER DUTIES. The City Attorney shall also advise and represent the Library Board upon their request, and shall advise any other board or commission of the City upon their request with the consent of the City Manager. The City Attorney shall also have such other powers and perform such other duties as may be provided by the Council and shall

transmit to his/her successor in office all books, papers, records, documents and property together with the invoice of the same, in his/her custody or appertaining to his/her office.

20.08 REPRESENTATION OF CITY EMPLOYEES. The City Attorney shall not appear on behalf of any City officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the Council, appear to defend any City officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

(Code of Iowa, Sec. 670.8)

CHAPTER 21

CITY MANAGER

21.01 Purpose
21.02 Appointment and Term
21.03 Compensation
21.04 Duties
21.05 Manager's Bond

21.01 PURPOSE. The purpose of this chapter is provide for a City Manager for the City.

21.02 APPOINTMENT AND TERM. The City Manager is to be appointed by a majority vote of the Council and shall hold office at the pleasure of the Council, and shall be subject to removal by majority vote of the Council. The Manager shall be a person competent by education and experience to perform the duties imposed upon such person by this chapter.

21.03 COMPENSATION. The City Manager shall receive such annual salary as the Council shall from time to time determine by resolution, and payment shall be made from the treasury of the City, in the manner provided for paying other officers and employees.

21.04 DUTIES. The duties of the City Manager are as follows:

1. Supervise enforcement and execution of the City laws.

2. Attend all meetings of the Council unless excused by the Council.

3. Recommend to the Council such measures as may be necessary or expedient for the good government and welfare of the City.

4. Have the general supervision and direction of the administration of the City government.

5. Be directly responsible to the Council for the administration of municipal affairs as directed by that body. All City departmental administration requiring the attention of the Council shall be brought before the Council by the Manager. Council involvement in administration initiated by the Council must be coordinated through the Manager.

6. Supervise and direct the official conduct of all officers, departments and employees of the City, specifically including but not limited to the finance and/or administrative officer, police, fire, street, sanitation, water treatment and parks and recreation departments. To effectuate this responsibility, and subject to the exceptions set out hereinafter, the City Manager shall have the power and authority to employ such assistants, supervisors and other employees of the City for which the Council has approved the position generally, and to discharge said assistants or employees found incompetent or derelict in their duties. The City Manager may delegate this power and authority to subordinate officers and department heads to such extent that the Manager deems appropriate. The power to hire and discharge shall not apply to the position of City Clerk, City Attorney or Police Chief, but the City Manager shall report to and advise the Council on the performance of the persons filling those positions and make such recommendations with regard to their employment as seems appropriate.

7. Sign contracts on behalf of the City.

8. Supervise the performance of all contracts for work to be done for the City, supervise all purchases of material and supplies, and see that such material and supplies are received, and are of the quality and character called for by the contract.

9. Supervise the construction, improvement, repair, maintenance and management of all City property, capital improvements, and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements, except property, improvements and undertakings managed by a utility board of trustees.

10. Cooperate with any administrative agency or utility board of trustees.

11. Be responsible for supervision of the cleaning, sprinkling, and lighting of streets, alleys and public places and collection and disposal of waste.

12. Investigate the affairs and conduct of any department, agency, officer or employee under the supervision of the Manager.

13. Provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by City law and to sign same when authorized by this Code of Ordinances.

14. Keep the Council fully advised of the financial and other conditions of the City, and of its future needs.

15. Conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.

16. Make to the Council periodic itemized financial reports in writing.

17. Perform such other duties as the Council may direct.

21.05 MANAGER'S BOND. The City Manager shall be bonded for the faithful performance of all duties, and in favor of the City of Independence, in an amount as approved by the Council. The City shall pay the costs of this bond.

[The next page is 101]

CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library
22.02 Library Trustees
22.03 Qualifications of Trustees
22.04 Organization of the Board
22.05 Powers and Duties
22.06 Contracting with Other Libraries
22.07 Nonresident Use
22.08 Expenditures
22.09 Annual Report
22.10 Injury to Books or Property
22.11 Theft
22.12 Notice Posted

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

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

22.03 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.

22.04 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 four years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years.

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 four (4) 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.

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

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

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

7. Use by Nonresidents. To authorize the use of the Library by nonresidents through the terms of Iowa's Open Access Program. ***(Ord. 2012-424 – Jul. 12 Supp.)***

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

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

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

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

(Code of Iowa, Ch. 661)

12. Record of Proceedings. To keep a record of its proceedings, which shall be forwarded to the City Clerk monthly.

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.

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

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

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

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

22.07 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, through the terms of Iowa's Open Access Program. ***(Ord. 2012-424 – Jul. 12 Supp.)***

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.

22.08 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)

22.09 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.

22.10 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)

22.11 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)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

[The next page is 107]

CHAPTER 23

PARKS AND RECREATION ADVISORY COMMITTEE

23.01 Definitions
23.02 Committee Established
23.03 Appointment and Term
23.04 Vacancies
23.05 Powers and Duties
23.06 Parks and Recreation Fund
23.07 Parks and Recreation Director
23.08 Hiring and Firing of Personnel
23.09 Council Authority
23.10 Swimming Pool Regulations

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

1. "Committee" means the Parks and Recreation Advisory Committee of the City.

2. "Director" means the person immediately in charge of the operation, maintenance and use of the parks and recreational facilities of the City.

3. "Recreational facility" means a park, playground or recreational area, indoors or outdoors, within or outside the limits of the City, owned by the City.

23.02 COMMITTEE ESTABLISHED. For the purpose of operation, maintenance and regulation of parks and recreational facilities, a Parks and Recreation Advisory Committee has been established and is under the management supervision of the City Manager.

23.03 APPOINTMENT AND TERM. The Committee shall consist of five (5) members. Each member shall be a resident of the City and shall be appointed by the Mayor, with the approval of the Council, for a term of two years.

23.04 VACANCIES. A vacancy shall occur if any member of the Committee changes residence outside of the City boundaries, loses voting privileges, is absent from three (3) consecutive meetings of the Committee, fails to attend two-thirds (2/3) of the regular monthly meetings of the Committee, except for such absences due to illness, or if a member dies. Vacancies occurring in the Committee membership shall be filled in the same manner as an original appointment and such appointment filling the vacancies shall be for the remainder of the unexpired term of the vacancy for which the appointment is made.

23.05 POWERS AND DUTIES. Powers and duties of the Committee are as follows:

1. Planning, Programming and Review. The Committee shall provide the Director with suggestions and ideas for the coordination and operation of programs within the jurisdiction of the parks and recreation curriculum. Committee members shall review policies, rules and regulations relating to parks, playgrounds, recreational centers and cultural functions and activities of the department and make recommendation to the Council for adoption. The Committee shall give special attention to the development of long-range planning, programming and availability of parks and recreational facilities for the use of the public. The Committee shall plan for the promotion of the general beauty of the parks within the City.

2. Annual and Monthly Reports. The Committee shall transmit to the City Manager and the City Manager in turn to the Council, at least annually, a written

report of its activities and recommendations for the development and operation of the parks, playgrounds, recreational centers and cultural functions and programs.

3. Records. The Committee shall keep and maintain a record of its proceedings, which shall be forwarded to the City Clerk monthly.

4. Rules and Regulations. The Committee shall recommend to the Director and the Director to the City Manager any such rules and regulations, not in conflict with this chapter, as may be needed for the efficient operation and maintenance and orderly use of the parks and recreational facilities. Final approval of said rules and regulations shall be by the Council.

5. Concessions. The Committee shall recommend to the City Manager for approval any temporary or permanent concession permits, with the exception of any permits for the sale or dispensing of beer or alcoholic beverages, which concession permits shall be subject to the approval of the Council.

6. Budget. The Committee may participate in the budgeting process with the Director to make recommendations to the City Manager for the annual line item budget of all anticipated fiscal year revenues and expenditures. This budget, with the recommendation of the City Manager, shall be subject to final approval by the Council.

23.06 PARKS AND RECREATION FUND. An account known as the Parks and Recreation Fund shall be kept and maintained by the City Treasurer. All monies received, whether derived from user fees, taxation, memorial contributions or otherwise, shall be deposited in said fund. All salaries, expenses and disbursements connected with the management and operation of the programs shall be paid out of this fund.

23.07 PARKS AND RECREATION DIRECTOR. The general position of Parks and Recreation Director shall be as approved by the Council. The Director shall be hired/fired by the City Manager. The appointment may be temporary, permanent or part-time. The Director shall assume such duties as the City Manager may establish within city administrative policies. The Director shall be advised by and work with the Committee, but shall be directly responsible to the City Manager.

23.08 HIRING AND FIRING OF PERSONNEL. The hiring and firing of all Parks and Recreation department personnel shall be the responsibility of the City Manager and the City Manager may delegate hiring and firing authority to the Director for part-time and seasonal personnel.

23.09 COUNCIL AUTHORITY. Any exercise of authority by the Council to the Committee or the Director shall be made through the City Manager; however the Council shall retain ultimate control.

23.10 SWIMMING POOL REGULATIONS. Subject to approval of the Committee and final approval of the Council, rules and regulations for the use of the municipal swimming pool, which shall include the hours of operation, length of the season the pool is to be open, fees and admission charges, and regulations to be observed while using the pool shall be enforced by the Director. The rules and regulations shall be posted on the facility or otherwise publicized in a manner to provide adequate notice to the public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility. The Director

shall seek the advice and authority of the City Manager in case of immediate need or emergency.

[The next page is 115]

CHAPTER 24

UTILITY BOARD OF TRUSTEES

24.01 Purpose
24.02 Board Established
24.03 Appointment of Trustees
24.04 Compensation
24.05 Vacancies
24.06 Powers and Duties of the Board
24.07 Control of Funds
24.08 Accounting
24.09 Discriminatory Rates Illegal
24.10 Discontinuance of Board

24.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned electric utility and cable communication system by a board of trustees.

24.02 BOARD ESTABLISHED. Pursuant to an election held June 12, 1962, the management and control of the municipally owned electric utility were placed in the hands of a Board of Trustees, and pursuant to an election held November 4, 1997, the management and control of the municipally owned cable communication system were placed in the hands of the Utility Board of Trustees.

(Code of Iowa, Sec. 388.2)

24.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five residents of the City to serve as trustees for staggered six-year terms. No public officer or salaried employee of the City may serve on the utility board.

(Code of Iowa, Sec. 388.3)

24.04 COMPENSATION. The Council shall by resolution set the compensation of Board members.

(Code of Iowa, Sec. 388.3)

24.05 VACANCIES. An appointment to fill a vacancy on the Board of Trustees shall be made in the same manner as an original appointment except that such appointment shall be for the balance of the unexpired term.

(Code of Iowa, Sec. 388.3)

24.06 POWERS AND DUTIES OF THE BOARD. The Board of Trustees may exercise all powers of the City in relation to the City utilities, with the following exceptions:

(Code of Iowa, Sec. 388.4)

1. Taxes, Ordinances and Bonds. The Board may not certify taxes to be levied, pass ordinances or amendments, or issue general obligation or special assessment bonds.

Code of Iowa, Sec. 388.4[1])

2. Property. Title to all property must be in the name of the City but the Board has full control of such property subject to limitations imposed by law.

(Code of Iowa, Sec. 388.4[2])

3. Reports to Council. The Board shall make a detailed annual report to the Council including a complete financial statement.

(Code of Iowa, Sec. 388.4[3])

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general circulation in the City a condensed statement of proceedings including a list of all claims.

(Code of Iowa, Sec. 388.4[4])

24.07 CONTROL OF FUNDS. The Board shall control tax revenues allocated to it as well as all moneys derived from operations.

(Code of Iowa, Sec. 388.5)

24.08 ACCOUNTING. Utility moneys are held in a separate utility fund, with a separate account for each utility.

(Code of Iowa, Sec. 388.5)

24.09 DISCRIMINATORY RATES ILLEGAL. The utility may not provide use or service at a discriminatory rate, except to the City or its agencies, as provided in Section 384.91, Code of Iowa.

(Code of Iowa, Sec. 388.6)

24.10 DISCONTINUANCE OF BOARD. A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the utility board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utility it administers is disposed of or leased for a period of over five years.

(Code of Iowa, Sec. 388.2)

[The next page is 145]

CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Peace Officers Appointed
30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Additional Powers and Duties
30.12 Authority

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. The Police Chief shall have general direction and control of the police department, subject to the supervision of the City Manager.

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

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

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

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

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

(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 State reportable accidents investigated to the Iowa 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 City Manager monthly reports regarding duties performed as well as such other reports as may be requested by the City Manager.

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.

11. Record of Receipts. The Police Chief shall keep a correct account in a book provided for that purpose, of all money or property belonging to the City, coming into the Police Chief's hands from whatever source, stating from whom and on what account the same was paid, and the Police Chief shall, when not otherwise provided, pay over monthly to the City Treasurer all money and securities in hand belonging to the municipality and take the City Treasurer's receipt therefor.

12. Other Duties. The Police Chief shall have such other powers and perform such other duties as may be provided by the City Manager or Council and shall transmit to his/her successor in office all books, papers, records, documents, property and passwords, together with an invoice of the same, in his/her custody or appertaining to his/her office.

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

30.11 ADDITIONAL POWERS AND DUTIES. Police officers shall have such other powers and duties as the Council, City Manager, or the provisions of this Code shall provide, or as the Mayor shall provide during periods when a declaration of emergency is in existence.

Police officers shall surrender all property belonging to the City and all evidence in their possession to the Police Chief at such time as their employment as police officers ceases.

30.12 AUTHORITY. Each member of the Police Department shall have power and authority to serve and execute warrants and other processes for the apprehension and commitment of persons charged with any crime, held for examination or trial, or taken in the execution or the commission of any crime or misdemeanor. No member of the Police Department shall be involved in any outside business or service, or have any outside employment, that will interfere with the member's duties as a police officer and police officers are specifically prohibited during the course of their employment from accepting outside employment from any person or corporation holding an Iowa liquor license or beer permit.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Compensation
35.06 Appointment of Fire Chief
35.07 Fire Chief: Duties
35.08 Obedience to Fire Chief
35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Authority of Council

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

(Code of Iowa, Sec. 364.16)

35.02 ORGANIZATION. The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council. The department shall include some volunteer members and some full-time and part-time City employees. The Fire Department shall recommend individuals for the full-time and part-time positions to the City Manager and the City Manager shall hire or appoint such individuals to the department. The Fire Chief shall have general direction and control of the Fire Department, subject to the supervision of the City Manager.

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

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

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

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

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

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

35.06 APPOINTMENT OF FIRE CHIEF. The Fire Chief shall be appointed by the City Manager based on a recommendation from the Independence Fire Department and shall hold office at the pleasure of the City Manager.

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 general control over the care, use, maintenance and disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

8. Notification. Whenever death, serious bodily injury, or property damage in excess of $200,000 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of $50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 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 City Manager 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. Additional Powers and Duties.

A. Removal of Building. The Fire Chief shall have the power, when in the Fire Chief's judgment it becomes necessary to check or control any fire, to order any fence, building, or erection of any kind to be cut down and removed with the consent of the City Manager. The Fire Chief shall have the power to cause any building or erection to be blown up with explosives for the purpose of checking or extinguishing a fire.

B. Tear Down Buildings. The Fire Chief shall have the power, with the consent of the City Manager, to tear down any portion of any building that may be standing after a fire which, in their judgment, may be dangerous to persons or property.

C. Remove Wires. The Fire Chief shall have the power to cause the removal of all wires or the turning off of all electrical current whenever the same interferes with the work of the Fire Department.

D. Other Duties. The Fire Chief shall have such other powers and perform such other duties as may be provided by the City Manager and City Council and shall transmit to his/her successor in office all books, papers, documents and property.

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

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

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

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

35.11 LIABILITY INSURANCE. The Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of

and resulting from the performance of departmental duties within or outside the corporate limits of the City.

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

35.15 AUTHORITY OF COUNCIL. The Council shall have full power to dissolve or reorganize the Fire Department, to dismiss, remove or reinstate officers and members, make all appointments and declare vacancies as the good of the department may require. All property of the Fire Department shall be subject to the control of the Council, and nothing herein contained shall divest the City of its property or in any manner impair its right to take possession of the same or any part thereof.

[The next page is 155]

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs
36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.

2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.

3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused that that person.

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief, Fire Chief, City Manager and Mayor of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief or Fire Chief shall immediately notify the Department of Natural Resources.

2. Any other person who discovers a hazardous condition shall notify the Police Chief, Fire Chief, City Manager and Mayor, and the Police Chief or Fire Chief shall then notify the Department of Natural Resources.

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

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

[The next page is 185]

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse
40.06 Loitering at City Hall

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 LOITERING AT CITY HALL. It is unlawful for any persons to assemble together or to remain on any public property directly abutting the City Hall unless the persons so assembled or gathered intend to enter City Hall for the express purpose of conducting official City business or to attend any official City meeting, which meeting has been posted as a public meeting.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances
41.02 False Reports to or Communications with Public Safety Entities
41.03 Providing False Identification Information
41.04 Refusing to Assist Officer
41.05 Harassment of Public Officers and Employees
41.06 Interference with Official Acts
41.07 Abandoned or Unattended Refrigerators
41.08 Antenna and Radio Wires
41.09 Barbed Wire and Electric Fences
41.10 Discharging Weapons
41.11 Throwing and Shooting
41.12 Urinating and Defecating
41.13 Fireworks
41.14 Trapping Prohibited
41.15 Firearm or Weapon Free Zones
41.16 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 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.06 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

41.07 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)

41.08 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])

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

41.10 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, pellet guns or firearms of any kind within the City limits except by written authorization of the Council. (The police pistol range is exempt.)

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

3. No person shall hunt within the City limits except by written authorization of the Council.

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

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

41.12 URINATING AND DEFECATING. It is unlawful for any person to urinate or defecate, or cause to be placed, onto any sidewalk, street, alley, or other public way, or onto

any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

41.13 FIREWORKS. The sale, use or exploding of fireworks within the City are subject to the following:

1. Definition. The term "fireworks" includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance.

(Code of Iowa, Sec. 727.2)

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks 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 per person.

B. Property Damage: $50,000

C. Total Exposure: $1,000,000

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

41.14 TRAPPING PROHIBITED.

1. Prohibited. No person except those acting under the authority of the Director of the Department of Natural Resources or under authority of the Council shall capture or take or attempt to capture or take, with any trap, snare or net, or any combination thereof, any game bird or fur-bearing animal, nor shall any person use any poison or any medicated or poisoned food or any other substance for the killing, capturing or taking of any game bird or fur-bearing animal within the City limits.

2. Confiscation of Traps. Officers appointed by the Department of Natural Resources, or any duly authorized agent, and the Police Chief shall have the authority to confiscate such traps, snares or nets when found in use within the City limits.

3. Presumption in Reference to Illegal Use. In any proceeding charging illegal use of a trap, snare or net within the City, a prima facie presumption that the

registered owner of the trap, snare or net was the person who used or placed the trap, snare or net shall be raised by proof that:

A. The trap, snare or net was found in use in the City in violation of this section; and

B. The defendant named in the citation information or complaint was the registered owner at the time in question.

41.15 FIREARM OR WEAPON FREE ZONES.

1. Purpose. Municipal buildings owned, leased, or occupied by the City of Independence, Iowa, are declared to be firearm/weapon free zones. It is unlawful for any person, except a peace officer, member of the Armed Forces of the United States or the National Guard, a person in the service of the United States, or correctional officer serving in an institution under authority of the Iowa Department of Corrections to carry, possess, or display any weapon or firearm within any municipal building.

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

A. "Firearm" means any device or instrument designed to propel, or used in the propulsion of any bullet, shot, pellet, slug, BB, dart, or other projectile by the action of an explosive, or by mechanical or electrical means, within or connected to the device or instrument. The term includes pistols, revolvers, derringers, handguns, pellet guns, rifles, shotguns, muskets, or other devices which can expel or may be readily converted to expel any form of projectile so as to strike an object or person.

B. "Municipal building" means any structure, dwelling, garage, or shelter owned, leased, or otherwise occupied by the City and used for any municipal or public purposes by the City.

C. "Weapon" means and includes all weapons as defined or described in Sections 724.1 and 724.4 of the *Code of Iowa*, as amended.

3. Detection. Persons entering any municipal building may, upon probable cause to believe they are carrying or in possession of a weapon or firearm, be subject to metal detection testing or personal search.

4. Penalties. Any person violating the provisions of this section shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a municipal infraction with a fine not to exceed $750.00.

(Ord. 2011-413 – Apr. 11 Supp.)

41.16 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. ***(Ord. 2013-448 – Oct. 13 Supp.)***

(Code of Iowa, Sec. 708.12)

[The next page is 195]

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft
42.07 Unauthorized Computer Access
42.08 Fundraising
42.09 Wapsipinicon Dam
42.10 Fishing from Bridge
42.11 Other Public Property Offenses

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.7[3])

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 UNAUTHORIZED COMPUTER ACCESS. It is unlawful for a person to knowingly and without authorization access a computer, computer system or computer network.

(Code of Iowa, Sec. 716.6B)

42.08 FUNDRAISING.

1. No organization shall conduct a fundraising event on any street, sidewalk, alley or other City property without first obtaining approval from the City Manager.

2. No person shall participate in any fundraising event conducted on any street, sidewalk, alley or other City property unless such person is wearing a reflective vest.

42.09 WAPSIPINICON DAM. It is unlawful for any person to walk on, climb on, stand on, or occupy any portion of the Wapsipinicon Dam and/or its elevated structures.

42.10 FISHING FROM BRIDGE. It is unlawful for any person to fish from the 1st Street Bridge or from the river side of any fenced-off area.

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

1. Chapter 22 – Library

   A. Section 22.10 – Injury to Books or Property

   B. Section 22.11 – Theft of Library Property

2. Chapter 105 – Solid Waste Control and Recycling
   - A. Section 105.08 – Littering Prohibited
   - B. Section 105.09 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
   - A. Section 135.01 – Removal of Warning Devices
   - B. Section 135.02 – Obstructing or Defacing
   - C. Section 135.03 – Placing Debris On
   - D. Section 135.04 – Playing In
   - E. Section 135.05 – Traveling on Barricaded Street or Alley
   - F. Section 135.08 – Burning Prohibited
   - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
   - A. Section 136.11 – Interference with Sidewalk Improvements
   - B. Section 136.14 – Fires or Fuel on Sidewalks
   - C. Section 136.15 – Defacing
   - D. Section 136.16 – Debris on Sidewalks
   - E. Section 136.17 – Merchandise Display
   - F. Section 136.18 – Sales Stands

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose
43.02 Controlled Substance Defined
43.03 Drug Paraphernalia Defined
43.04 Determining Factors
43.05 Possession of Drug Paraphernalia
43.06 Manufacture, Delivery or Offering For Sale

43.01 PURPOSE. The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

43.02 CONTROLLED SUBSTANCE DEFINED. The term "controlled substance" as used in this chapter is defined as the term "controlled substance" is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.

43.03 DRUG PARAPHERNALIA DEFINED. The term "drug paraphernalia" as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators; Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

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

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

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

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

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

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

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

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

43.04 DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

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

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

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

4. Proximity To Substances. The proximity of the object to controlled substances.

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

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

8. Instructions. Instructions, oral or written, provided with the object concerning its use.

9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.

10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

43.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

43.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

[The next page is 225]

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Containers in Motor Vehicles
45.04 Machines Used to Vaporize an Alcoholic Beverage for Consumption

45.01 PERSONS UNDER LEGAL AGE. As used in this section, "legal age" means twenty-one (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 liquor, wine, or beer. The provisions of this subsection do not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

(Code of Iowa, Sec. 123.47[1A])

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 liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under State laws.

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

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, wine, or beer from any licensee or permittee.

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

(Ord. 2014-458 – Oct. 14 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 in a public place.

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

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

(Code of Iowa, Sec. 123.46)

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

45.04 MACHINES USED TO VAPORIZE AN ALCOHOLIC BEVERAGE FOR CONSUMPTION. It is unlawful to sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency

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

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

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

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

C. "Minor" means any 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 law enforcement 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 stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is

permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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.

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of 12:00 midnight and 5:00 a.m. on Friday and Saturday.

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

A. The minor is accompanied by a responsible parent/guardian or adult person authorized by the parent/guardian.

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 law enforcement 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 law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement 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 First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a municipal infraction.

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

D. Minor's Second Violation. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a municipal infraction.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products. ***(Ord. 2014-455 – Oct. 14 Supp.)***

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

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

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

[The next page is 233]

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering
47.05 Swimming Prohibited
47.06 Camping
47.07 Park Use Limited

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 SWIMMING PROHIBITED. It is unlawful for any person to swim in the Wapsipinicon River within the City limits.

47.06 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and for no more than two consecutive days. The provisions of this section do not apply to the Independence Recreational Vehicle Park.

47.07 PARK USE LIMITED. It is unlawful for any person to do or cause any of the following described activities between the hours of 11:00 p.m. and 7:00 a.m.:

1. Noise Disturbance. To remain in the parks for purposes of playing basketball, softball, baseball, soccer, football, tennis or any other game which causes any person to willfully make or continue or cause or allow to be made or continued any noise disturbance.

2. Operation of Sound Equipment. To operate or allow to be operated any sound equipment including radios, stereo systems, tape players or musical instruments or devices.

3. Use of Lights. To turn on, cause to be turned on or use any lights, whether provided by the user or a part of the park lighting system.

[The next page is 245]

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited
50.05 Nuisance Abatement
50.06 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

2. Filth or Noisome Substance. Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.

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

4. Water Pollution. Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. Blocking Public and Private Ways. Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**

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

9. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard. **(See also Chapter 52)**

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

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

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

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

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

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †

   A. Description of Nuisance. A description of what constitutes the nuisance.

   B. Location of Nuisance. The location of the nuisance.

---

† **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.

C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

D. Reasonable Time. A reasonable time within which to complete the abatement.

E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.

2. Method of Service. The written notice may be in the form of an ordinance, personal service, or sent by certified mail to the property owner.

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

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

4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.

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

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

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

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

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds 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. 2012-438 – Nov. 12 Supp.)***

(Code of Iowa, Sec. 364.13)

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

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

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions
51.02 Junk and Junk Vehicles Prohibited
51.03 Junk and Junk Vehicles a Nuisance
51.04 Exceptions
51.05 Notice to Abate

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

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

2. "Junk vehicle" means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:

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

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

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

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

E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power.

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

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

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

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

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation. The owner of or person occupying the property upon which the junk or junk vehicle is kept has fourteen (14) days to comply or be cited.

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within:

1. Structure. A garage or other enclosed structure; or

2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

[The next page is 253]

CHAPTER 52

WEEDS AND GRASS

52.01 Prohibition
52.02 Exemption
52.03 Nuisance
52.04 Itemized Report
52.05 Assessment
52.06 Hearing

52.01 PROHIBITION. It is unlawful for the owner or person in possession or control of any land within the City to maintain, cause or permit noxious weeds, grass exceeding eight (8) inches in height, and wild vines or wild bushes to exist upon such land.

52.02 EXEMPTION. The Council reserves the right to declare any particular area exempt from this chapter if it involves conservation or other natural grass, flower, or wildlife area, such exemption to be approved by the Council by motion and filed in writing with the Clerk.

52.03 NUISANCE. In the event the owner or person in the possession or control of any land within the City fails or refuses to cut or otherwise destroy the grass, vines, bushes, or weeds declared a nuisance as provided in Chapter 50 within seven (7) days after notice in writing has been given to such owner and person in possession or control of land within the City, the owner and/or the person in possession or control of such land shall be deemed guilty of a violation of this chapter and punished accordingly. Such written notice to cut or otherwise destroy the vegetation declared a nuisance in this chapter shall be sent by certified mail to the owner of record and the person in possession or control of the land in question. Such seven-day notice to cut or otherwise destroy shall be deemed to commence on the date of mailing the written notice.

52.04 ITEMIZED REPORT. Whenever the Clerk shall do any work under the provisions of this chapter, the Clerk shall make an itemized report of the expense thereof to the Council, and the names of the owners, agents or occupants of the premises, if known, and the number and description of the lot or parcel of ground concerned, and file the report on or before the 15th day of September each year.

52.05 ASSESSMENT.

1. The Council shall assess the cost and expense of the cutting of the weeds, including the cost of publication of notice of assessments and preparation of the plat or schedule thereof, against the lots and parcels of land and the owners thereof, so far as known, by a special tax, which assessment shall be made by a resolution adopted by the Council. It is the duty of the Clerk to certify the assessments and tax to the County Treasurer to be placed upon the tax books and collected together with interest and penalty, in the same manner as other unpaid taxes. When collected, the funds shall be paid into the fund upon which the warrants for the cost and expense of the destruction of weeds were drawn.

2. Before making any assessment pursuant to this chapter, it is the duty of the Clerk to prepare for the Council a plat or schedule showing the several lots, tracts of land, or parcels of ground to be assessed, and the amount proposed to be assessed against each of the lots for weed cutting prior thereto during the calendar year.

52.06 HEARING.

1. The Council shall thereupon fix a time for the hearing on the proposed assessments, and the Clerk shall give at least twenty (20) days' notice of the hearing prior to the time thus fixed to all concerned that the plat or schedule is on file and that the amounts as shown therein will be assessed against the several lots, tracts of land or parcels of ground described in the plat or schedule at the time fixed for the hearing unless objection is made thereto.

2. Notice of the hearing shall be given by one publication in a daily newspaper of general circulation published in the City or if the Council shall so determine, notice may be given by posting a copy thereof on the premises affected and by mailing a copy by registered mail to the last known address of the person owning or controlling the premises.

3. At the time and place for hearing established pursuant to this section, the owner of the premises or any person liable to pay the assessment may appear with the same rights given by law before boards of review in reference to assessment for general taxation.

[The next page is 265]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect
55.03 Livestock Neglect
55.04 Abandonment of Cats and Dogs
55.05 Livestock
55.06 At Large Prohibited
55.07 Damage or Interference
55.08 Annoyance or Disturbance
55.09 Dog Waste
55.10 Rabies Vaccination
55.11 Owner's Duty
55.12 Confinement
55.13 At Large: Impoundment
55.14 Disposition of Animals
55.15 Pet Awards Prohibited
55.16 Exemption for Public Safety Working Dogs

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.

2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)

3. "Animal control officer" means a person designated by the Council to perform such duties involving animal control and having authority for the enforcement of this chapter.

4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash, or "at heel" beside a competent person and obedient to that person's command.

5. "Business" means any enterprise relating to any of the following:

A. The sale or offer for sale of goods or services.

B. A recruitment for employment or membership in an organization.

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

6. "Cat" means a member of the felis domestica species, male or female, whether altered or not.

7. "Dog" means a member of the canine species, male or female, whether altered or not.

8. "Fair" means any of the following:

A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.

B. An exhibition of agricultural or manufactured products.

C. An event for operation of amusement rides or devices or concession booths.

9. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.

10. "Kennel" means any State or Federally licensed premises on which dogs or cats, six (6) months old or older, are kept or raised for the bona fide purpose of sale and which are kept under constant restraint.

11. "Livestock" means an animal belonging to the bovine (cow), caprine (goat), equine (horse), ovine (sheep), or porcine (swine) species, ostriches, rheas, emus, llamas; farm deer as defined in Section 170.1 of the Code of Iowa; or any poultry.

(Code of Iowa, Sec. 717.1)

12. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

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

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

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

persons, bicycles, automobiles or other vehicles. No citation shall be issued to an owner of a dog for permitting or allowing such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking or otherwise, until the owner has been issued two warnings by a law enforcement official, which warnings shall be on file in the Police Department.

55.09 DOG WASTE. It is unlawful for any owner or caretaker of any dog to allow such dog to defecate on any property not owned by the owner or caretaker without cleaning up after the dog and disposing of the waste in a proper manner.

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

(Code of Iowa, Sec. 351.33)

55.11 OWNER'S DUTY. It is the duty of the owner of any 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.

(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 at the impoundment facilities utilized by the City, 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 all impoundment fees, boarding costs, and if unvaccinated, by having the animal immediately vaccinated. Any animal that has been apprehended and impounded, tagged or untagged, shall be boarded for seven (7) days. If the owner fails to redeem the animal within seven (7) days 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.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

A. A prize for participating in a game.

B. A prize for participating in a fair.

C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:

A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.16 EXEMPTION FOR PUBLIC SAFETY WORKING DOGS. "Public safety working dogs" means any police service dogs, fire service dogs or search and rescue service dogs, any of which are being used by peace officers, fire department personnel, fire marshal personnel, official search and rescue personnel or correctional officers in their regular line of duty. The provisions set forth in this chapter do not apply to public safety working dogs.

[The next page is 271]

CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

56.01 Definitions
56.02 Vicious Dogs
56.03 Dangerous Animals
56.04 Abatement Procedures

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

1. "Dangerous animal" means[†]:

   A. Badgers, wolverines, weasels, skunk and mink;

   B. Raccoons;

   C. Bees;

   D. Scorpions;

   E. Any cross breed of such animals which have similar characteristics of the animals specified above;

   F. Any animals declared to be dangerous by the City Council.

2. "Guard dog" means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog and that is either securely enclosed within that area at all times or under the continuous control of a trained handler.

3. "Vicious dog" means any dog which, unprovoked and in a terrorizing manner, or in apparent attitude of attack, approaches any person upon the streets, sidewalks or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury upon, assaults or otherwise attacks a human being or domestic animal on public or private property; or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for fighting.

56.02 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City.

56.03 DANGEROUS ANIMALS. It is unlawful for any person to harbor or keep a dangerous animal within the City, except as provided in this section, and any such person shall immediately surrender any such animal to the Police Chief.

1. Keeping Dangerous Animals.

   A. Every person keeping, sheltering or harboring a dangerous animal shall report such fact in writing to the Clerk, together with the following information:

[†] **EDITOR'S NOTE:** Certain other dangerous animals, listed in Chapter 717F.1, paragraph 5a, of the *Code of Iowa*, are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

(1) The species name of each animal;

(2) The number of such animals of each species kept on the premises;

(3) A physical description of such animal, including any pet names to which it might respond;

(4) The location of such animal within the City, including the location of the cage or place of confinement upon or in said premises where the animal is kept;

(5) In the case of poisonous animals, the location of the nearest sources of anti-venom of that species.

B. Every person keeping, sheltering or harboring a dangerous animal shall, at all times, keep such animal securely confined within a cage or enclosure.

C. Every person keeping, sheltering or harboring a dangerous poisonous animal shall be required to keep ten (10) doses of anti-venom on hand and current at all times.

D. No person keeping, sheltering or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any property of another, except when such animal is being transported while in a cage or otherwise confined.

E. It is the owner's responsibility to notify the Police Department immediately in the event that a dangerous animal has escaped and is at large.

F. In the event that a dangerous animal is found at large and unattended upon any property within the City, thereby creating a hazard to life or property, such animal may, at the discretion of the Police Chief, be destroyed if it cannot safely be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

G. In the event that the Police Chief determines that a dangerous animal is being kept, sheltered or harbored by any person in violation of the provisions of this section, the Police Chief may bring such person before the proper court or may order abatement procedures to begin at once as specified in Section 56.04, or do both, at the discretion of the Police Chief.

2. Keeping Guard Dogs. The prohibition contained in this section does not apply to keeping of guard dogs. However, guard dogs must be kept within a structure, or a fenced enclosure at all times. Any guard dog found at large may be processed as a dangerous animal pursuant to the provisions of this section. Any premises guarded by a guard dog shall be prominently posted with a sign containing the words "GUARD DOG" or words of similar import, and the owner of such premises shall inform the police department or Clerk, in writing, that a guard dog is on duty at the premises. It is the owner's responsibility to notify the police department immediately when a guard dog has escaped and is running at large.

56.04 ABATEMENT PROCEDURES. In the event that a law enforcement officer has probable cause to believe that a dog is vicious or a dangerous animal is in violation of this chapter, the Police Chief shall be empowered to convene a hearing for the purpose of

determining whether or not the dog in question should be declared vicious or the dangerous animal is in violation and constitutes a hazard. The Police Chief shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the vicious dog or dangerous animal that a hearing will be held, at which time said owner or keeper may have the opportunity to present evidence why the dog or dangerous animal shall not be declared a hazard. The hearing shall be held promptly within no less than five (5) days or more than ten (10) days after the service of notice upon the owner or keeper of the dog or dangerous animal. The hearing shall be informal and shall be open to the public. After the hearing, the owner or keeper of the dog or dangerous animal shall be notified in writing of the determination. If a determination is made that the dog is vicious or the dangerous animal is a hazard, the owner or keeper shall comply with the provisions of this chapter in accordance with a time schedule established by the Police Chief, but in no case more than thirty (30) days subsequent to the date of determination. If the owner or keeper of the dog contests the determination, he or she may bring a petition in the district court within the judicial district wherein the dog or dangerous animal is found to be in violation and a threat to the public. The court shall conduct a hearing de novo and make its determination as to alleged viciousness or endangerment. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be vicious, or the dangerous animal to be a threat to the public safety, the court may establish a time schedule to insure compliance with this chapter. The court may decide all issues regardless of the fact that said owner or keeper fails to appear at said hearing. The determination of the district court shall be final and conclusive upon all parties thereto. However, the law enforcement officer shall have the right to declare a dog vicious or an animal dangerous for any subsequent actions of the dog or animal. In the event that the law enforcement officer has probably cause to believe that the dog in question is vicious or the dangerous animal poses a threat of serious harm to human beings or other domestic animals, the law enforcement officer may seize and impound the dog or dangerous animal pending the aforesaid hearings. The owner or keeper of the dog or dangerous animal shall be liable to the City when the dog or dangerous animal is impounded for costs and expenses of keeping such dog or dangerous animal.

[The next page is 295]

CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Independence 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 following described area:

   Commencing at the intersection of Second Street NW and Second Avenue NW, thence easterly extending to the intersection of Second Street NE and Sixth Avenue NE, thence southerly to the intersection of Sixth Avenue SE and Second Street SE thence westerly to the intersection of Second Street SW and Second Avenue SW, thence northerly to the intersection of Second Avenue NW and Second Street NW

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. "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 Police Chief or City Manager. The permit must be requested at least 45 days in advance of the parade date. Such permit shall state the time and

date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

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

4. Control By Police and 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
61.02 Crosswalks
61.03 Traffic Lanes
61.04 Standards
61.05 Compliance
61.06 DOT Signs

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

61.06 DOT SIGNS. During State primary road construction or reconstruction, the Iowa Department of Transportation shall erect and maintain signs, as necessary, to direct traffic to and along the detour route over City streets for the duration of the construction period. The signs erected shall be consistent with Part IV of the *Manual on Uniform Traffic Control Devices*. Further, it shall be the responsibility of the Iowa Department of Transportation to remove the detour signs when the construction is completed and/or the detour is discontinued.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Prohibited Traffic Lanes
62.08 Excessive Braking

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

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

22. Section 321.216B – Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.

23. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.

24. Section 321.218 – Operating without valid driver's license or when disqualified.

25. Section 321.219 – Permitting unauthorized minor to drive.

26. Section 321.220 – Permitting unauthorized person to drive.

27. Section 321.221 – Employing unlicensed chauffeur.

28. Section 321.222 – Renting motor vehicle to another.

29. Section 321.223 – License inspected.

30. Section 321.224 – Record kept.

31. Section 321.232 – Radar jamming devices; penalty.

32. Section 321.234A – All-terrain vehicles.

33. Section 321.235A – Electric personal assistive mobility devices.

34. Section 321.247 – Golf cart operation on City streets.

35. Section 321.257 – Official traffic control signal.

36. Section 321.259 – Unauthorized signs, signals or markings.

37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.

38. Section 321.262 – Damage to vehicle.

39. Section 321.263 – Information and aid.

40. Section 321.264 – Striking unattended vehicle.

41. Section 321.265 – Striking fixtures upon a highway.

42. Section 321.266 – Reporting accidents.

43. Section 321.275 – Operation of motorcycles and motorized bicycles.

44. Section 321.276 – Use of electronic communication device while driving; text-messaging.

45. Section 321.277 – Reckless driving.

46. Section 321.277A – Careless driving.

47. Section 321.278 – Drag racing prohibited.

48. Section 321.281 – Actions against bicyclists.

49. Section 321.284 – Open container; drivers.

50. Section 321.284A – Open container; passengers.

51. Section 321.288 – Control of vehicle; reduced speed.

52. Section 321.295 – Limitation on bridge or elevated structures.

53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.
55. Section 321.299 – Overtaking a vehicle.
56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
62. Section 321.309 – Towing; convoys; drawbars.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers approaching blind persons.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal of train.
85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.

87. Section 321.344 – Heavy equipment at crossing.

88. Section 321.344B – Immediate safety threat; penalty.

89. Section 321.354 – Stopping on traveled way.

90. Section 321.359 – Moving other vehicle.

91. Section 321.362 – Unattended motor vehicle.

92. Section 321.363 – Obstruction to driver's view.

93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.

94. Section 321.365 – Coasting prohibited.

95. Section 321.367 – Following fire apparatus.

96. Section 321.368 – Crossing fire hose.

97. Section 321.369 – Putting debris on highway.

98. Section 321.370 – Removing injurious material.

99. Section 321.371 – Clearing up wrecks.

100. Section 321.372 – School buses.

101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.

102. Section 321.381A – Operation of low-speed vehicles.

103. Section 321.382 – Upgrade pulls; minimum speed.

104. Section 321.383 – Exceptions; slow vehicles identified.

105. Section 321.384 – When lighted lamps required.

106. Section 321.385 – Head lamps on motor vehicles.

107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

108. Section 321.387 – Rear lamps.

109. Section 321.388 – Illuminating plates.

110. Section 321.389 – Reflector requirement.

111. Section 321.390 – Reflector requirements.

112. Section 321.392 – Clearance and identification lights.

113. Section 321.393 – Color and mounting.

114. Section 321.394 – Lamp or flag on projecting load.

115. Section 321.395 – Lamps on parked vehicles.

116. Section 321.398 – Lamps on other vehicles and equipment.

117. Section 321.402 – Spot lamps.

118. Section 321.403 – Auxiliary driving lamps.

119. Section 321.404 – Signal lamps and signal devices.

120. Section 321.404A – Light-restricting devices prohibited.

121. Section 321.405 – Self-illumination.
122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.450 – Hazardous materials transportation.
149. Section 321.454 – Width of vehicles.
150. Section 321.455 – Projecting loads on passenger vehicles.
151. Section 321.456 – Height of vehicles; permits.
152. Section 321.457 – Maximum length.
153. Section 321.458 – Loading beyond front.
154. Section 321.460 – Spilling loads on highways.
155. Section 321.461 – Trailers and towed vehicles.

156. Section 321.462 – Drawbars and safety chains.

157. Section 321.463 – Maximum gross weight.

158. Section 321.465 – Weighing vehicles and removal of excess.

159. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 PROHIBITED TRAFFIC LANES. It is unlawful for the operator of any vehicle to travel onto or upon any area which consists solely of yellow cross-hatched lines. For the purpose of this section, cross-hatched lines are defined as yellow painted lines which are at a 45º angle to the traffic lane markers. The following areas are designated as prohibited traffic lanes:

1. On First Street between Ninth Avenue East and Tenth Avenue West.

2. On Third Avenue Southeast from Third Street East north to First Street East.

62.08 EXCESSIVE BRAKING. It is unlawful for any person in the operation of a motor vehicle to use engine compression braking devices, or engine retarders, commonly referred to as "jake brakes," when slowing or stopping vehicles within the City limits.

[The next page is 315]

CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries and Parking Lots
63.04 Special Speed Zones
63.05 Minimum Speed
63.06 Controlled Access Facilities

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 10 MPH Speed Zones. A speed in excess of ten (10) miles per hour is unlawful in any alley in the City.

2. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On First Street from Station 450+00 to Station 475+00.

   B. On Twelfth Street NE from First Avenue NE to Fifth Avenue NE.

   C. On Third Avenue SE (Hwy. 150 South) from approximately 100 feet south of Third Street SE to First Street East.

D. On First Street East from Third Avenue to Fifth Avenue.

E. On Fifth Avenue NE (Hwy. 150 North) from First Street East to approximately 200 feet north.

F. On Enterprise Court.

G. On Swan Lake Boulevard.

H. On Seventeenth Street SE from Third Avenue SE to the easterly City limits.

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 First Street from Station 390+00 to Station 450+00.

B. On First Street from Station 475+00 to Station 508+90.

C. On Fifth Avenue NE (Hwy. 150 North) from approximately 200 feet north of First Street East to approximately 100 feet south of Twelfth Street NE.

D. On Third Avenue SE (Hwy. 150 South) from approximately 150 feet south of Eighth Street SE to approximately 100 feet south of Third Street SE.

E. On Sixth Avenue S.W. from Bland Boulevard to Enterprise Drive.

F. On Enterprise Drive from Sixth Avenue S.W. to Jamestown Avenue.

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 Third Avenue SE (Hwy. 150 South) from approximately 50 feet south of Lovers Lane to 150 feet south of Eight Street SE.

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 First Street from Station 376+10 to Station 390+00.

B. On First Street from Station 508+90 to Station 522+10.

C. On Third Avenue SE (Hwy. 150 South) from approximately 50 feet south of Lovers Lane, south to 557 feet south of Three Elms Park Road.

D. On 20th Avenue SW from First Street West to the south City limits.

(Ord. 2014-452 – Mar. 14 Supp.)

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. ***Repealed by Ordinance No. 2014-452 – Mar. 14 Supp.***

B. On Third Avenue SE (Hwy. 150 South) from 557 feet south of Three Elms Park Road, south to U.S. Highway 20.

C. On Fifth Avenue NE (Hwy. 150 North) from approximately 100 feet south of Twelfth Street NE to approximately 300 feet north of Fourteenth Street NE.

7. Special 50 MPH Speed Zones. A speed in excess of fifty (50) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Third Avenue SE (Hwy. 150 South) from approximately 200 feet south of 240th Street SE to U.S. Highway 20.

B. On Fifth Avenue NE (Hwy. 150 North) from approximately 300 feet north of Fourteenth Street NE to approximately 400 feet north of 206th Street NE.

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

(Code of Iowa, Sec. 321.294)

63.06 CONTROLLED ACCESS FACILITIES. Speed limits on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns
64.03 Right Turn on Red Signal Prohibited
64.04 Traveling in Turning Lane Prohibited

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; provided, however, U-turns are prohibited within the Business District, at intersections where there are automatic traffic devices, and at the following designated intersections:

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

1. First Street West, at Fourth Avenue NW, Sixth Avenue NW, Seventh Avenue NW, Eighth Avenue NW, Ninth Avenue NW, Tenth Avenue NW, Fourth Avenue SW, Fifth Avenue SW, Sixth Avenue SW, Eighth Avenue SW and Ninth Avenue SW.

2. First Street East and Seventh Avenue SE, Ninth Avenue SE, Eighth Avenue NE and Eleventh Avenue NE.

64.03 RIGHT TURN ON RED SIGNAL PROHIBITED. Vehicular traffic facing a steady red signal shall not proceed or make a right turn at the following locations when appropriate signs are in place.

(Code of Iowa, Sec. 321.257 [2])

1. At the intersection of First Street East and Ninth Avenue SE.

2. At the intersection of First Street West and Ninth Avenue.

3. At the intersection of Fifth Avenue NE and Third Street NE.

64.04 TRAVELING IN TURNING LANE PROHIBITED. It is unlawful for the operator of a motor vehicle to travel in a center lane marked solely for turning other than for the purposes of making the appropriate turn from said lane. In no event shall the operator of a motor vehicle travel in excess of 100 feet in said lane without the appropriate turn unless said travel is reasonably necessary to avoid vehicles parked for the purposes of loading and unloading of passengers or goods and merchandise.

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Required
65.03 Four-Way Stop Intersections
65.04 Yield Required
65.05 School Stops
65.06 Stop Before Crossing Sidewalk
65.07 Stop When Traffic Is Obstructed
65.08 Yield to Pedestrians in Crosswalks
65.09 Official Traffic Controls

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

(Code of Iowa, Sec. 321.345)

1. First Street East from Fourth Avenue to east City limits.
2. First Street West from Second Avenue to west City limits.
3. Third Avenue SE from Third Street SE to south City limits.
4. Fifth Avenue NE from Second Street NE to north City limits.
5. Eighth Avenue NW from First Street West to Eighth Street NW.
6. Tenth Avenue NW from First Street West to north City limits.
7. Third Street NW from Thirteenth Avenue NW to Sixteenth Avenue NW.
8. Sixth Avenue SW from First Street West to Bland Boulevard SW.
9. Bland Boulevard SW to west City limits.
10. Ninth Street SW from Seventh Avenue SW to west City limits.
11. Second Avenue SW from First Street West to Seventh Street SW.
12. Second Avenue NE from Second Street NE to Eleventh Street NE.
13. Twelfth Street NE from Third Avenue NE to Fourth Avenue NE.
14. Tenth Street NE from Third Avenue NE to Fourth Avenue NE.
15. Eighth Street NE from Sixth Avenue NE to Seventh Avenue NE and Park Avenue NE.
16. Eighth Avenue NE from First Street East to Fourteenth Street NE.
17. Third Street NE from Ninth Avenue NE to Seventeenth Avenue NE.
18. Fifth Avenue SE from First Street East to Sixth Street SE.
19. Third Avenue NE from Second Street NE to Ninth Street NE.
20. Sixth Avenue SE from Second Street SE to Fourth Street SE.
21. Seventh Avenue NE from Second Street NE to Seventh Street NE.

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

(Code of Iowa, Sec. 321.345)

1. Eighth Street NE. Vehicles traveling on Eighth Street NE shall stop at First Avenue NE.

2. Third Street SE. Vehicles traveling on Third Street SE shall stop at Ninth Avenue SE.

3. Third Street NE. Vehicles traveling on Third Street NE shall stop at Fourteenth Avenue NE.

4. Third Avenue SW. Vehicles traveling on Third Avenue SW shall stop at Seventh Street SW.

5. Seventh Street SW. Vehicles traveling on Seventh Street SW shall stop at Fourth Avenue SW.

6. Union Avenue NE. Vehicles traveling on Union Avenue NE shall stop at Fourteenth Street NE.

7. Fifth Street SE. Vehicles traveling on Fifth Street SE shall stop at Seventh Avenue SE.

8. Third Avenue NE. Vehicles traveling north on Third Avenue NE shall stop at Tenth Street NE.

9. Fourth Avenue NE. Vehicles traveling north on Fourth Avenue NE shall stop at Tenth Street NE.

10. Second Street NE. Vehicles traveling on Second Street NE shall stop at Second, Third, Fourth, Fifth and Sixth Avenues NE.

11. Second Street SE. Vehicles traveling on Second Street SE shall stop at Fourth Avenue SE.

12. Second Avenue NE. Vehicles traveling north on Second Avenue NE shall stop at Twelfth Street NE.

13. Sixth Avenue NE. Vehicles traveling on Sixth Avenue NE shall stop at Twelfth and Thirteenth Streets NE.

14. Fifth Street NE. Vehicles traveling on Fifth Street NE shall stop at Fourth Avenue NE.

15. Third Street NW. Vehicles traveling on Third Street NW shall stop at Sixth Avenue NW.

16. Fourth Street NW. Vehicles traveling on Fourth Street NW shall stop at Seventh Avenue NW.

17. Fourth Street NE. Vehicles traveling on Fourth Street NE shall stop at Fourth Avenue NE.

18. Sixth Street NE. Vehicles traveling on Sixth Street NE shall stop at Fourth Avenue NE.

19. Third Street NE. Vehicles traveling on Third Street NE shall stop at Sixth Avenue NE.

20. Fourth Avenue SE. Vehicles traveling on Fourth Avenue SE shall stop at Fifth Street SE and Sixth Street SE.

21. Fourth Street SE. Vehicles traveling on Fourth Street SE shall stop at Ninth Avenue SE.

22. Third Street NW. Vehicles traveling west on Third Street NW shall stop at Seventeenth Avenue NW.

23. Bland Boulevard SW. Vehicles traveling east on Bland Boulevard SW shall stop at Sixth Avenue SW.

24. Nelson Avenue NE. Vehicles traveling on Nelson Avenue NE shall stop at Sixth Street NE.

25. First Avenue NE. Vehicles traveling on First Avenue NE shall stop at Seventh Street NE.

26. Sixth Street NE. Vehicles traveling on Sixth Street NE shall stop at First Avenue NE.

27. Seventh Street NE. Vehicles traveling on Seventh Street NE shall stop at Nelson Avenue NE.

28. Seventh Street NE. Vehicles traveling on Seventh Street NE shall stop at Sixth Avenue NE.

29. Second Street SE. Vehicles traveling on Second Street SE shall stop at Seventh Avenue SE.

30. Seventeenth Avenue NE. Vehicles traveling on Seventeenth Avenue NE shall stop at First Street East.

31. Seventeenth Avenue NE. Vehicles traveling on Seventeenth Avenue NE shall stop at Third Street NE.

32. Seventh Street NE. Vehicles traveling on Seventh Street NE shall stop at Fourth Avenue NE.

33. Fourth Street NE. Vehicles traveling on Fourth Street NE shall stop at Eleventh Avenue NE.

34. Eighth Street NE. Vehicles traveling on Eighth Street NE shall stop at Fourth Avenue NE.

35. Ninth Street NE. Vehicles traveling on Ninth Street NE shall stop at Fourth Avenue NE.

36. Seventh Avenue SE. Vehicles traveling on Seventh Avenue SE shall stop at Fifth Street SE.

37. Ninth Avenue SW. Vehicles traveling on Ninth Avenue SW shall stop at Ninth Street SW.

38. David Drive. Vehicles traveling west on David Drive shall stop at both intersections with Ninth Avenue SW.

39. Fifteenth Avenue NE. Vehicles traveling north on Fifteenth Avenue NE shall stop at Third Street NE.

40. Sixteenth Avenue NE. Vehicles traveling south on Sixteenth Avenue NE shall stop at Third Street NE.

41. Twelfth Street NE. Vehicles traveling on Twelfth Street NE shall stop at Eighth Avenue NE.

42. Seventh Street NE. Vehicles traveling on Seventh Street NE shall stop at Thirteenth Avenue NE.

43. Ninth Avenue NW. Vehicles traveling north on Ninth Avenue NW shall stop at Third Street NW.

44. Sixth Avenue SW. Vehicles traveling north on Sixth Avenue SW shall stop at Bland Boulevard.

45. Spruce Drive. Vehicles traveling east on Spruce Drive shall stop at Sixth Avenue SW (Jackson Avenue).

46. Pine Drive. Vehicles traveling east on Pine Drive shall stop at Sixth Avenue SW (Jackson Avenue).

47. Enterprise Drive. Vehicles traveling west on Enterprise Drive shall stop at Sixth Avenue SW (Jackson Avenue).

48. Enterprise Court. Vehicles traveling north on Enterprise Court shall stop at Enterprise Drive, at both the east and west intersections.

49. Fourteenth Avenue N.E. Vehicles traveling east on Fourteenth Avenue N.E. shall stop at Sixteenth Avenue N.E.

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 Eighth Avenue SW and Second Street SW.

2. Intersection of Sixth Avenue SW and Third Street SW.

(Ord. 2014-453 – May 14 Supp.)

3. Intersection of Fourth Avenue NE and Third Street NE.

4. Intersection of Fifth Avenue SE and Third Street SE.

5. Intersection of Fifth Avenue SE and Fifth Street SE.

6. Intersection of Ninth Avenue SW and Second Street SW.

7. Intersection of Second Street SW and Second Avenue SW.

8. Intersection of Second Avenue NE and Second Street NE.

9. Intersection of Third Avenue NE and Second Street NE.

10. Intersection of Fourth Avenue NE and Second Street NE.

11. Intersection of Sixth Avenue NE and Second Street NE.

12. Intersection of Sixth Avenue NE and Third Street NE.

13. Intersection of Fourteenth Avenue NE and Third Street NE.

(Ord. 2011-414 – Apr. 11 Supp.)

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

(Code of Iowa, Sec. 321.345)

1. Fifth Avenue SW. Vehicles traveling on Fifth Avenue SW shall yield at Second Street SW.

2. Fourth Avenue SW. Vehicles traveling on Fourth Avenue SW shall yield at Second Street SW.

3. Third Avenue SW. Vehicles traveling on Third Avenue SW shall yield at Second Street SW.

4. Third Street SE. Vehicles traveling on Third Street SE shall yield at Fourth Avenue SE.

5. Seventh Avenue SE. Vehicles traveling on Seventh Avenue SE shall yield at Third Street SE.

6. Eighth Avenue SE. Vehicles traveling on Eighth Avenue SE shall yield at Third Street SE.

7. Ninth Avenue SE. Vehicles traveling on Ninth Avenue SE shall yield at Fourth Street SE.

8. Fourth Street SE. Vehicles traveling on Fourth Street SE shall yield at Fourth Avenue SE.

9. Third Avenue SW. Vehicles traveling on Third Avenue SW shall yield at 3rd Street SW.

10. Fourth Avenue SW. Vehicles traveling on Fourth Avenue SW shall yield at 3rd Street SW.

11. Fifth Avenue SW. Vehicles traveling on Fifth Avenue SW shall yield at 3rd Street SW.

12. Seventh Avenue SW. Vehicles traveling on Seventh Avenue SW shall yield at 3rd Street SW.

13. Eighth Avenue SW. Vehicles traveling on Eighth Avenue SW shall yield at 3rd Street SW.

14. Ninth Avenue SW. Vehicles traveling on Ninth Avenue SW shall yield at 3rd Street SW.

(Ord. 2014-453 – May 14 Supp.)

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

(Code of Iowa, Sec. 321.249)

1. Sixth Avenue SW at Second Street SW.

2. Eighth Avenue SW at Second Street SW.

3. Fourth Avenue NE at Third Street NE.
4. Fifth Avenue SE at Third Street SE.
5. (Repealed by Ordinance No. 2011-415 – Aug. 11 Supp.)
6. Fifth Avenue SE at Fifth Street SE.
7. Third Avenue NE at Third Street NE.
8. Sixth Avenue NE at Fifth Street NE.
9. Fifth Street NE at Sixth Avenue NE.
10. (Repealed by Ord. 2012-422 – May 12 Supp.)
11. Fourth Avenue NE at Fourth Street NE.

65.06 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.07 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

65.08 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

65.09 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. First Street East and Second Avenue NE.
2. First Street East and Third Avenue NE-SE.
3. First Street East and Fifth Avenue NE-SE.
4. First Street East and Ninth Avenue SE.
5. First Street East and Ninth Avenue NW-SW.
6. Enterprise Drive and Highway 150.
7. Third Avenue SE and Second Street SE.
8. First Street West and Second Avenue SW.
9. Fifth Avenue NE and Third Street NE.

[The next page is 335]

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets
66.04 Load Limits on Bridges
66.05 Truck Route

66.01 TEMPORARY EMBARGO. If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs.

(Code of Iowa, Sec. 321.471 & 472)

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

(Code of Iowa, Sec. 321.473 & 321E.1)

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

(Code of Iowa, Sec. 321.473 & 475)

1. Four-ton limit on Second Street NE, from Ninth Avenue NE to Eleventh Avenue NE.

2. Six-ton limit on the following streets:

   A. Fourth Avenue NE from First Street East to Tenth Street NE.

   B. Seventh Street NE from Fourth Avenue NE to Fifth Avenue NE.

   C. Eighth Avenue NE from First Street East to Fourteenth Street NE.

   D. Twelfth Avenue NE from First Street East to Third Street NE.

   E. Fifth Avenue SE from First Street East to Fifth Street SE.

   F. Sixth Street SE from Fourth Avenue SE to Fifth Avenue SE.

   G. Sixth Avenue SE from First Street SE to Fifth Street SE.

   H. Second Avenue SW from First Street West to Seventh Street SW.

   I. Eighth Avenue SW from First Street West to Ninth Street SW.

   J. Fifth Street SW from Sixth Avenue SW to Eighth Avenue SW.

   K. Seventh Street NW from Sixth Avenue NW to Seventh Avenue NW.

   L. Eighth Avenue NW from First Street West to Eight Street NW.

M. Seventeenth Street S.E. from the west curb of Waste Water Treatment Plant Road, then west for a distance of 1,250 feet.

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

(Code of Iowa, Sec. 321.471)

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

1. Truck Routes Designated. Every motor vehicle weighing two tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

A. Highway 150 from the north corporate limits to the south corporate limits.

B. First Street from the east corporate limits to the west corporate limits.

2. Deliveries Off Truck Route. Any motor vehicle weighing two tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route. For the purpose of this subsection, "scheduled or definite stop" includes areas outside the City limits that are contiguous and adjacent to the City limits, and have direct access to a City street.

(Code of Iowa, Sec. 321.473)

3. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

(Code of Iowa, Sec. 321.473)

[The next page is 339]

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing
67.04 Use Sidewalks

67.01 WALKING IN STREET. Pedestrians shall at all times when walking on or along a street, walk on the left side of the street.

(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, Sec. 321.328)

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

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

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. Alley between First Street and Second Street SE shall be southbound from First Street, then westbound to Third Avenue SE.

2. Alley between First Street and Second Street NE shall be eastbound from Second Avenue NE to Third Avenue NE.

3. Fifth Avenue SE shall be northbound from Sixth Street SE to Fifth Street SE.

4. Fifth Street NE shall be westbound from First Avenue NE to Nelson Avenue NE.

5. First Avenue NE shall be southbound from Sixth Street NE to Fifth Street NE.

6. Nelson Avenue NE shall be northbound from Fifth Street NE to Sixth Street NE.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb – One-way Street
69.03 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 All Night Parking Prohibited
69.10 Truck Parking Limited
69.11 Truck Parking Lot
69.12 Two-Hour Parking Zones
69.13 One-Hour Parking Zones
69.14 Fifteen-Minute Parking Zones
69.15 Parking Limited to Fifteen Minutes for Loading
69.16 North City Parking Lot
69.17 South City Parking Lot
69.18 East City Parking Lot
69.19 City Hall Block Parking Lot
69.20 Snow Emergency
69.21 Snow Routes
69.22 Recreation Vehicles
69.23 Controlled Access Facilities
69.24 Library Parking Lot

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. First Avenue NE, on the west side, from Sixth Street NE to Fifth Street NE.

2. Fifth Street NE, on the north side, from First Avenue NE to Nelson Avenue NE.

3. Nelson Avenue NE, on the east side, from Fifth Street NE to Sixth Street NE.

4. Second Street NE, on the north side, from Fifth Avenue NE to Sixth Avenue NE.

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 seventy-two (72) hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale;

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;

3. Advertising. Displaying advertising;

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

69.06 PARKING PROHIBITED. No one shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. Crosswalk. On a crosswalk.

(Code of Iowa, Sec. 321.358 [5])

2. Center Parkway. On the center parkway or dividing area of any divided street.

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

3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.

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

4. Sidewalks. On or across a sidewalk.

(Code of Iowa, Sec. 321.358 [1])

5. Driveway. In front of a public or private driveway.

(Code of Iowa, Sec. 321.358 [2])

6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.

(Code of Iowa, Sec. 321.358 [3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.

(Code of Iowa, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.

(Code of Iowa, Sec. 321.358 [6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

(Code of Iowa, Sec. 321.358 [8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.

(Code of Iowa, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(Code of Iowa, Sec. 321.358 [10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358 [11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

(Code of Iowa, Sec. 321.358 [13])

14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

16. Ramps. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.

(Code of Iowa, Sec. 321.358[15])

17. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

18. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

69.07 PERSONS WITH DISABILITIES PARKING. The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

(Code of Iowa, Sec. 321L.4[2])

A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit;

B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the Code of Iowa;

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the Code of Iowa when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the Code of Iowa.

69.08 NO PARKING ZONES. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

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

1. First Street East, on both sides, from Fourth Avenue East to the east City limits.

2. First Street West, on both sides, from the east end of the First Street Bridge to the west City limits.

3. Second Street SW and Second Street SE, on both sides, from Second Avenue SW to Third Avenue SE.

4. Second Street SW, on the north side, from Second Avenue SW to Sixth Avenue SW.

5. Second Avenue NE, on both sides, from Third Street NE to Twelfth Street NE.

6. Second Avenue NE, on the west side, from a point 138 feet south of the intersection of the centerline of Third Street NE and the west line of Second Avenue NE, thence south 24 feet.

7. Third Street NE, on the north side, from Second Avenue NE to Third Avenue NE.

8. Third Street NE, on the south side, from Ninth Avenue NE to Eighteenth Avenue NE.

9. Third Street SW, on the south side, from Second Avenue SW to Third Avenue SW.

10. Third Avenue SE, on both sides, from First Street East to the south City limits.

11. The north half of Third Avenue NE, on the west side, from Ninth Street NE to Tenth Street NE.

12. Third Avenue NE, on the east side, from Second Street NE to Tenth Street NE.

13. Third Avenue NE, on the west side, from Second Street NE to Third Street NE.

14. Fifth Street SE, on the north side, from Fourth Avenue SE to Fifth Avenue SE.

15. Fifth Avenue NE, on the east side, from Third Street NE to the north City limits.

16. Fifth Avenue NE, on the west side, from First Street East to the north City limits.

17. Fifth Avenue SE, on the east side, from First Street East to Second Street SE.

18. Third Avenue SE, on both sides, from First Street East to Eighth Street SE.

19. Ninth Avenue SE, on the west side, from First Street East to Third Street SE.

20. Tenth Street NE, on both sides, from Third Avenue NE to Fourth Avenue NE.

21. Twelfth Street NE, on both sides, from First Avenue NE to Union Avenue.

22. Fifteenth Avenue NE, on the west side, from First Street East to Third Street NE.

23. Sixteenth Avenue NW, an the east side, from First Street West to Third Street NW.

24. Fourth Avenue NE, on the east side of the south half, from First Street East to Second Street NE.

25. Sixth Avenue NE, on the east side, from Second Street NE to Third Street NE.

26. Eighth Avenue NE, on the east side of the south half, from First Street East to Second Street NE.

27. Eighth Avenue NW, on both sides, from First Street West to Eighth Street NW.

28. First Street East, on both sides, from Fourth Avenue NE to the east City limits.

29. First Street West, on both sides, from the east end of the Wapsipinicon River bridge to the west City limits.

30. Third Avenue NE, on the east side, from Fifth Street NE to Tenth Street NE.

31. Seventeenth Avenue NE, on both sides, from First Street East and Third Street NE.

32. Second Street SW, on both sides, beginning at the centerline of Seventeenth Avenue SW, east the distance of 120 feet on Second Street SW.

33. Fourteenth Street NE, on both sides, from First Avenue west to the North City limits.

34. Second Avenue NE, on the east side from the north curb of First Street east for a distance of 85 feet north.

35. In and around the area commonly known as the boat dock, which is located generally at the corner of Center Avenue NE and Sixth Street NE.

36. Tenth Avenue NW, on the east side, from Third Street NW to the end of the City limits.

37. Second Street SE, on both sides, from Third Avenue SE to Fifth Avenue SE.

38. Fifth Avenue SE, on the west side, from Second Street SE to Sixth Street SE.

39. First Avenue NE, on the east side, from Sixth Street NE to Fifth Street NE.

40. Fifth Street NE, on the south side, from First Avenue NE to Nelson Avenue NE.

41. Nelson Avenue NE, on the west side, from Fifth Street NE to Sixth Street NE.

42. Second Street NE, on the south side, from Fifth Avenue NE to Sixth Avenue NE.

43. Fourth Street SW, on the south side, from Sixth Avenue SW to Seventh Avenue SW. ***(Ord. 2010-411 – Jan. 11 Supp.)***

44. Sixth Avenue SW, on the west side, from First Street W to Bland Boulevard. ***(Ord. 2011-421 – Dec. 11 Supp.)***

69.09 ALL NIGHT PARKING PROHIBITED.

1. All Night Parking Prohibited. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets between the hours of 2:00 a.m. and 6:00 a.m. of any day.

A. First Street East, on both sides, from Fourth Avenue NE to First Street bridge.

2. Parking Prohibited. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets between the hours of 2:00 a.m. and 6:00 a.m. of any day during the months of November 15th through April 1st.

A. Second Street SE, on the south side, from Fourth Avenue to Fifth Avenue.

B. Second Street NE, on both sides, from Second Avenue NE to Fifth Avenue.

C. Fourth Avenue NE, on both sides, from First Street to Second Street.

D. Fourth Avenue SE, on both sides, from First Street to Second Street.

E. Second Avenue SW, on the east side, from Third Street SW to Fourth Street SW.

F. Second Avenue NE, on both sides, from First Street to Third Street.

G. Third Avenue NE, on both sides, from First Street to Second Street.

(Ord. 2012-425 – Jul. 12 Supp.)

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

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

69.11 TRUCK PARKING LOT. It is unlawful to park any vehicle in the City of Independence truck parking lot in violation of the following regulations:

1. Registration. Any person driving a truck which carries a required placard load shall register said vehicle with the City of Independence Police Department. Trucks may be pre-registered if carrying the same load and the driver of the truck shall not be required to re-register unless there is a change in the load being carried by that truck.

2. Licensed Vehicle. No vehicle without a license shall be permitted to park in the City Truck Parking Lot.

3. Annual License. An annual license shall be required for any truck which occupies the Truck Parking Lot for more than 30 consecutive days during any one calendar year.

4. Terminal Prohibited. No vehicle shall be parked in the City Truck Parking Lot in the manner of acting as a terminal for said truck.

5. Subleasing and Motor Homes. There shall be no subleasing of any parking spot in the Truck Parking Lot and motor homes are prohibited from parking in said lot.

6. Electrical Outlets. Only one vehicle per electric outlet shall be allowed. Users of the City Truck Parking Lot may lease a spot in order to have a reserved parking spot and electrical outlet. The rate shall be made available to City residents at the rate of $100.00 per year or $10.00 per month. For nonresidents of the City, the rate shall be $150.00 per year, or $15.00 per month. Individuals having reserved spots shall be allowed to park in said areas for unlimited time periods.

7. Non-reserved Spots. Persons who have not obtained spots shall be allowed to park in the City Truck Parking Lot for a period not to exceed 72 consecutive hours. A permit may be obtained from the office of the City Clerk extending the length of time of the parking. Said permit shall be issued at discretion of the Clerk.

8. Indemnification Agreement. Truck owners shall be required to sign an agreement with the City indemnifying the City for any and all damages or injuries that may occur as a result of the use of the City Truck Parking Lot.

9. Theft or Accident. The City shall not be responsible for any theft or accident which may be incurred by the owner of the truck as a result of the use of the City Truck Parking Lot.

69.12 TWO-HOUR PARKING ZONES. No person shall stop, stand or park a vehicle for a continuous period of time in excess of two hours in any of the following designated two-hour parking zones:

1. Second Street NE from Second Avenue NE to Third Avenue.

2. Second Avenue North, on the west side, between Second Street and Third Street.

69.13 ONE-HOUR PARKING ZONES. No person shall stop, stand or park a vehicle for a continuous period of time in excess of one hour in any of the following designated one-hour parking zones:

1. Ninth Avenue SE, on the east side, from First Street East to Third Street SE.

2. Second Street NE, on the north side, from Corinne Avenue NE to Second Avenue NE between the hours of 8:00 a.m. and 5:00 p.m., Monday through Saturday.

69.14 FIFTEEN-MINUTE PARKING ZONES. No person shall stop, stand or park a vehicle for a continuous period of time in excess of fifteen minutes in any of the following designated fifteen-minute parking zones:

1. The west side of Second Avenue NE from the north curb of Second Street NE for a distance of 60 feet north.

2. The east side of Second Avenue NE from the north curb of Second Street NE for a distance of 150 feet north.

3. The north side of Second Street NE from 62 feet east of the east curb of Second Avenue NE for a distance of 38 feet east.

4. The west side of Second Avenue NE from the south curb of Second Street NE for a distance of 45 feet south.

5. The south side of First Street East from 50 feet west of the west curb of Fourth Avenue SE for a distance of 22 feet west.

6. The south side of First Street East from the east curb of Third Avenue SE for a distance of 60 feet east.

7. The south side of First Street East from 54 feet west of the west curb of Third Avenue SE for a distance of 22 feet west.

8. The north side of First Street East from the west curb of Third Avenue NE for a distance of 60 feet west.

9. Third Street NE, on the northerly one hundred (100) feet from the intersection of Third Street NE and Fourth Avenue NE running in a westerly direction, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

69.15 PARKING LIMITED TO FIFTEEN MINUTES FOR LOADING. (Repealed by Ord. 2012-423 – May 12 Supp.)

69.16 NORTH CITY PARKING LOT. It is unlawful to park any vehicle in the North City Parking Lot in violation of the following regulations:

1. Prohibited Parking. No vehicle weighing more than five tons shall be parked in the North City Parking Lot.

2. Seventy-two Hour Limit. No vehicle shall be parked in the North City Parking Lot for a continuous period of time for more than seventy-two (72) hours.

3. Angle Parking. All vehicles in the North City Parking Lot shall be parked at an angle as indicated by markings or signs.

69.17 SOUTH CITY PARKING LOT. It is unlawful to park any vehicle in the South City Parking Lot in violation of the following regulations:

1. Two Hour Limit. No vehicle shall be parked in such lot for a continuous period of time more than two hours between the hours of 6:00 a.m. and 2:00 a.m. of the following day.

2. Four Hour Limit. No vehicle shall be parked along the west side and southwest corner of said lot for a continuous period of time more than four hours.

3. Angle Parking. All vehicles shall be parked at an angle as indicated by markings or signs.

69.18 EAST CITY PARKING LOT. It is unlawful to park any vehicle in the East City Parking Lot in violation of the following regulation:

1. Twenty-four-Hour Limit. No vehicle shall be parked in such lot for a continuous period of more than 24 hours.

69.19 CITY HALL BLOCK PARKING LOT. It is unlawful to park any vehicle in the City Hall block parking lots between the hours of 2:00 a.m. and 6:00 a.m., except as hereinafter provided:

1. Vehicles either owned by or used by City employees or volunteer fire fighters shall be allowed to park during said time only if said persons are in the performance of City business.

2. Vehicles owned by tenants of the apartment building directly adjacent to said lot shall be allowed to park only if the landlord has provided the Police Department with the license number of the vehicle owned by the tenant. It shall be the sole responsibility of the landlord to keep current, in the Police Department, those license plate numbers. Furthermore, only one vehicle per lease shall be allowed to park in said lot.

The City Hall block parking lots are the lots directly adjacent to City Hall, on either side, and also the lot running perpendicular to City Hall.

69.20 SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned or leased 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 48-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 publicize the requirements widely, using all available news media, in early November each year. Where predictions or occurrences indicate the need, the Mayor or City Manager 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.

69.21 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. The following streets and avenues are hereby designated as snow routes:

(Code of Iowa, Sec. 321.236[12])

1. Twelfth Street NE from First Avenue NE to a point 495 feet east of intersection of Twelfth Street NE and Eighth Avenue NE.

2. Third Street NE from Second Avenue NE to the present eastern boundary of the City.

3. First Street from Tenth Avenue NE to Ninth Avenue SE.

4. Second Street SW from a point 627 feet west of the intersection of Second Street SW and Eighth Avenue SW to Eighth Avenue SW.

5. Second Street from Second Avenue SW to Third Avenue SE.

6. Third Street SE from Seventh Avenue SE to Ninth Avenue SE.

7. Second Street SW from Sixth Avenue SW to Second Avenue SW.

8. Sixth Street SE from Third Avenue SE to Fifth Avenue SE.

9. Bland Boulevard from westerly City limits to Sixth Avenue SW.

10. Eighth Avenue from a point 318 feet north of the intersection of Eighth Avenue NW and Eighth Street NW to Second Street SW.

11. Sixth Avenue from Seventh Street NW to Bland Boulevard.

12. Second Avenue SW from First Street West to Seventh Street SW.

13. Second Avenue NE from Twelfth Street NE to First Street East.

14. Third Avenue SE from First Street East to a point 264 feet south of the intersection of Third Avenue SE and Seventh Street SE.

15. Fifth Avenue from Twelfth Street NE to Sixth Street SE.

16. Seventh Avenue SE from First Street East to Eighth Street SE.

17. Eighth Avenue NE from northern City limits to First Street East.

18. Ninth Avenue SE from First Street East to Third Street SE.

19. Seventeenth Avenue NE from First Street East to Third Street NE.

20. The entire four (4) blocks of Sixth Avenue SE.

21. Third Street NW from Eighth Avenue NW to Seventeenth Avenue NW.

69.22 RECREATION VEHICLES. It is unlawful to park a boat trailer, car/utility trailer, or unoccupied motor home, travel or camping trailer on any public street, alley or place for a period in excess of twenty-four (24) hours. Under no circumstances shall any motor home, travel or camping trailer be inhabited while on any public street or alley.

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

69.24 LIBRARY PARKING LOT. It is unlawful to park any vehicle in the Library Parking Lot in violation of the following regulations:

1. Restricted Parking. Parking in the Library Parking Lot shall be restricted to patrons of the Independence Public Library.

2. Four-Hour Limit. No vehicle shall be parked in the Library Parking Lot for a continuous period of time for more than four (4) hours.

The Library Parking Lot consists of the parking lots directly adjacent to the Independence Public Library on the north, west, and south sides of the building.

[The next page is 371]

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate
70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

70.01 ARREST OR CITATION. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such officer may:

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

(Code of Iowa, Sec. 805.8 & 805.8A)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the Police Department. The simple notice of a fine shall be in the amount of twenty-five dollars ($25.00) for snow route parking violations and ten dollars ($10.00) for all other violations except 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 improper use of a persons with disabilities parking permit is one hundred dollars ($100.00). Failure to pay the fine in a timely fashion shall cause the City to contact the Buchanan County Treasurer's office to allow them to refuse to renew motor vehicle registration for the violator.

Any alleged violation of the parking restrictions imposed by this Code of Ordinances may be challenged by way of hearing before the Mayor. The City's burden is proof beyond a reasonable doubt. The officer issuing the ticket must appear at the time of the hearing and be subject to cross-examination. The alleged parking violator has a right to call witnesses on his own behalf. The hearing shall be conducted in an informal basis and the violator shall be afforded all rights of due process. The Mayor shall prepare a written decision. If the violator wishes to challenge the decision of the Mayor, the violator must provide to the City written notice of appeal within ten (10) days of the Mayor's decision. If the violator files said timely notice, by filing with the Clerk of Court within ten (10) days of the decision, the City shall proceed to prosecute this under Iowa Code Sections 805.7 to 805.13, or as any other traffic violation as provided under Iowa Code Section 321.236(1)(b).

(Ord. 2011-420 – Dec. 11 Supp.)

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

70.05 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

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

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

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

6. Unlicensed Vehicle. An unlicensed vehicle after effort has been made to contact the owner.

[The next page is 375]

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 Operation of All-Terrain Vehicles
75.06 Negligence
75.07 Accident Reports

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

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

1. "All-terrain vehicle" or "ATV" means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand two hundred (1,200) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Ord. 2012-439 – Nov. 12 Supp.)

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

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but that contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

3. "Off-road utility vehicle" means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than two thousand (2,000) 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. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles. ***(Ord. 2012-439 – Nov. 12 Supp.)***

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

4. "Snowmobile" means a motorized vehicle that weighs less than one thousand (1,000) pounds, that 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 that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code*

of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

75.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Unplowed Streets. Snowmobiles may be operated upon streets which have not been plowed during the snow season.

(Code of Iowa, Sec. 321G.9[4a])

2. Prohibited Streets. Snowmobiles shall not be operated on any of the following designated streets:

(Code of Iowa, Sec. 321G.9[4a])

A. First Street.

B. Highway No. 150.

C. Second Avenue NE from First Street to Twelfth Street NE.

D. Second Street NE from Second Avenue to Sixth Avenue NE.

E. Third Avenue NE from First Street to Fifth Street NE.

F. Fourth Avenue NE from First Street to Fifth Street NE.

G. Fourth Avenue SE from First Street to Second Street SE.

H. Fifth Avenue SE from First Street to Sixth Street SE.

I. Sixth Street SE from Third Avenue SE to Fifth Avenue SE.

3. Other Streets. Snowmobiles may be operated on any other street within the City for the sole and exclusive purpose of using the most direct roadway for the ingress to and egress from the City. No snowmobile shall be driven on any roadway solely for entertainment or pleasure.

4. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

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

(Code of Iowa, Sec. 321G.9[4c])

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

(1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile is brought to a complete stop before crossing the street;

(3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

(4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

(Code of Iowa, Sec. 321G.9[2])

5. Railroad Right-of-way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

6. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

7. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

8. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

9. Hours of Operation Limited. No snowmobile shall be operated in the City between the hours of 12:00 midnight and 7:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

10. Thaw Ban. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.

11. Dead Man Throttle. No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10[1 & 3]

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking."

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

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage in the amount set by the Department of Natural Resources, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

[The next page is 385]

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations
76.02 Traffic Code Applies
76.03 Double Riding Restricted
76.04 Two Abreast Limit
76.05 Bicycle Paths
76.06 Speed
76.07 Emerging from Alley or Driveway
76.08 Carrying Articles
76.09 Riding on Sidewalks
76.10 Towing
76.11 Improper Riding
76.12 Parking
76.13 Equipment Requirements
76.14 Special Penalty
76.15 Bike Safety Route

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. However, these regulations do not apply to any law enforcement official operating a bicycle while on duty and acting in the official line of duty.

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 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

76.05 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 unless the vehicle is manufactured for such use.

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 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 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 BIKE SAFETY ROUTE. The following route is declared a Bike Safety Route:

First Street E at Ninth Avenue SE; Ninth Avenue at Third Street SE; Third Street at Fourth Avenue SE; Fourth Avenue at Second Street SE; Second Street SE/SW at Second Avenue SW; Second Avenue at Third Street SW; and Third Street SW to Liberty Trail.

This route is further declared a "Shared Route" for bicycles and motor vehicles. The only exception is that portion of the route declared with the use of bike lanes on Second Street SE and Second Avenue SW beginning on the east side at Third Avenue SE and ending at Second Avenue SW. Appropriate signage will be posted to identify the declared route. All laws and practices will be observed by both forms of transportation and courtesies extended accordingly as stated in declaring the Bike Route.

(Ord. 2014-454 – May 14 Supp.)

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 77

SKATEBOARDS, ROLLER SKATES AND IN-LINE SKATES

77.01 Use Restricted
77.02 Yielding Right-of-Way
77.03 Traffic Signs and Signals
77.04 Towing
77.05 Special Penalty
77.06 Exceptions

77.01 USE RESTRICTED. No person shall use or ride a skateboard, roller skates or in-line skates ("Roller Blades") on a sidewalk or parking lot in the following designated areas:

1. Business District. That area legally described as follows:

Block 8, Original Plat; Blocks 1, 2, 3, 4, and 5 of Stoughton and McClure's Addition; Blocks 1 and 2 of Scarcliff s Addition; Blocks 1 and 21 of Stoughton and McClure's Second Addition; and the unplatted Blocks lying between Blocks 3 and 4 Stoughton and McClure's Addition and the Wapsipinicon River.

This area is more commonly known and described as the approximate eight-block area, including the surface of the streets, avenues, sidewalks, alleys and parking lots, lying within the following described boundaries:

Starting at a point on the northwest corner of the intersection of Third Avenue NW and First Street West, thence easterly to the northeast corner of the intersection of Sixth Avenue NE and First Street East; thence southerly along the east line of the intersection of Sixth Avenue and Second Street SE; thence westerly along a south line of Second Street SE to the southwest corner of the intersection of Second Avenue SW and Second Street SW; thence northerly along the west line of Second Avenue SW to the southwest corner of the intersection of First Street West and Second Avenue SW; thence westerly along the south line of First Street West to the southwest corner of the intersection of First Street West and Third Avenue SW; thence northerly along the west line of Third Avenue NW to the point of beginning.

2. Sidewalks. Use of sidewalks outside the described area shall be the preferred travel way for skateboards, in-line skates and roller skates. Further and specifically, this preference shall include the use of the sidewalk/pedestrian way adjacent to and south of Second Street, including the Second Street Bridge from Second Avenue SW to Sixth Avenue SE. All such use shall remain subject to the requirements for yielding the right-of-way to pedestrians as herein provided.

3. Other Posted Locations. When and where signs are erected or applied on any sidewalk or roadway or adjacent thereto, prohibiting the riding or use of skateboards, roller skates or in-line skates thereon, by any person, no person shall disobey the signs.

4. Tennis Courts. No person shall ride or use a skateboard, roller skates or in-line skates upon any public tennis court located within the City limits.

77.02 YIELDING RIGHT-OF-WAY.

1. Sidewalks. Whenever any person is riding or using a skateboard, roller skates or in-line skates upon a public sidewalk, or so close thereto as to pose a danger of collision with any pedestrian thereon, such person shall yield the right-of-way to the pedestrian.

2. Emerging from an Alley or Driveway. Any person riding or using a skateboard, roller skates or in-line skates, upon emerging from an alley, driveway or building and approaching a sidewalk or the sidewalk area extending across any alleyway, driveway or building, shall yield the right-of-way to all pedestrians approaching on the public sidewalk or the public area adjacent to the sidewalk, and/or upon entering the roadway itself, shall yield the right-of-way to all vehicles approaching from either direction on that roadway.

3. Roadways. Any person riding or using a skateboard, roller skates or in-line skates shall yield the right-of-way and shall not impede the regular and normal flow of vehicular traffic on any of the roadways of the City. Further, any person riding or using a skateboard, roller skates or in-line skates on the roadways of the City shall not cause vehicular traffic to stop or swerve in order to avoid collision with them.

77.03 TRAFFIC SIGNS AND SIGNALS. Any person riding or using a skateboard, roller skates or in-line skates shall observe all traffic signs and signals when traversing the roadways of the City.

77.04 TOWING. It is unlawful for any person using a skateboard, roller skates or in-line skates to be towed by any vehicle, bicycle, or other transportation, motorized or otherwise, upon the streets of the City.

77.05 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine or standard penalty provided for violations for the Code of Ordinances, allow such person's skateboard, roller skates or in-line skates to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for the second offence and thirty (30) days for a third offense. Punishment for fourth and additional offenses shall revert to the scheduled fines and standard penalties provided for violations of this Code of Ordinances.

77.06 EXCEPTIONS. The restrictions on the use of skateboards, roller skates or in-line skates in the Business District, as defined above, shall not apply to the residential dwellings and apartments within the Business District, so long as the person using the skateboard, roller skates or in-line skates is on private property within the Business District.

[The next page is 401]

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. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.

4. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

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

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

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 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])

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 five dollars ($5.00) for each 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])

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals
81.03 Obstructing Streets
81.04 Crossing Maintenance

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

1. "Operator" means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

2. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 WARNING SIGNALS. Operators shall sound a horn at least 1,000 feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

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

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

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.

2. Avoid Striking. When necessary to avoid striking any object or person on the track.

3. Disabled. When the train is disabled.

4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

5. In Motion. When the train is in motion except while engaged in switching operations.

6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

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

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

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])
(Code of Iowa, Sec. 364.11)

[The next page is 425]

CHAPTER 90

WATER SERVICE SYSTEM

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

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.

2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.

4. "Water main" means a water supply pipe provided for public or community use.

5. "Water service pipe" means the pipe from the water main to the building served.

6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

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

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

90.03 MANDATORY CONNECTIONS. The owners of any houses, buildings or structures used for human occupancy, employment or use, situated within the City and abutting on any street, alley or right-of-way in which there is located a public water main are hereby required to connect such facilities to the City's public water system in accordance with the provisions of these Water Service chapters within ninety (90) days after the date of official

notice to do so, provided that said public water main is located within two hundred (200) feet of the property line of such owner. This connection requirement is not applicable to residences and business establishments served, on the effective date of the ordinance codified in this chapter, by private water supplies which meet all requirements of State and local law. It is unlawful for any person to construct any private water supply within the City limits, unless such supply is approved by the Council. Council approval may be granted whenever access to the public water system is not located within two hundred (200) feet of the property line of a person's property or for any other reason consistent with public policy.

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

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

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. The following schedule of fees is established to cover City costs related to issuing the permit, supervising, regulating, and inspecting the water service connection construction, necessary water main shut-off. These fees include water main tap charges and charges for water used during construction before installation of the water meter.

Schedule of Connection Charges

Service Line Size	Connection Charges
1¼" or less	$ 250.00
1½"	$ 265.00
2"	$ 475.00
3"	$ 1,000.00
4" and over	$ 1,500.00

When replacement of existing water service pipes is necessary in order to complete public improvement, or for other reasons, the Council shall have the authority to waive the fees listed in this section or to pro rate connection charges to reflect actual City costs incurred in said replacement.

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 *Plumbing Code.*

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

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

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

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.

2. Sizes and Location of Taps. The size of taps in the mains shall be determined by the Superintendent. All taps in the mains shall be made at least two (2) feet apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the curb valve shall be standard weight Type K copper and from the curb valve to the meter setting Type K copper or 140-pound test P.V.C. 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 served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

90.14 CURB VALVE. There shall be installed a main shut-off valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more

than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

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

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

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

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

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

[The next page is 431]

CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems – Exception
91.04 Location of Meters
91.05 Meter Setting
91.06 Remote Meter Readers
91.07 Meter Repairs
91.08 Right of Entry
91.09 Service Calls and Tests
91.10 Second Meter

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

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

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.

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

91.06 REMOTE METER READERS.

1. New Construction. Connection charges as set forth in Section 90.06 of this Code of Ordinances for new construction shall include the cost of an exterior digital meter reader, which shall be furnished by the City.

2. Meter Replacement Program. The City has adopted a program of replacing the existing interior water meters with exterior water meter readers and any such replacement when made as part of the replacement schedule shall be installed and paid for at City expense. If an individual requests replacement prior to when scheduled, such person shall pay a fee of twenty-five dollars ($25.00).

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

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

91.09 SERVICE CALLS AND TESTS. A deposit of twenty-five dollars ($25.00) will be required for all water meter service calls and/or water meter calibration checks. When calibrated, if the water meter delivers less than the amount of water that is indicated on the digital register, the $25.00 deposit will be refunded to the customer. If the water meter is found to deliver the correct amount or more than the amount of water that is registered, the $25.00 deposit shall be retained by the City for services rendered.

91.10 SECOND METER. A thirty-five dollar ($35.00) fee will be required for a request for a second meter to be utilized in exterior watering, which shall be furnished by the City. The property owner shall be required to pay any fees for installation and hookup of the second meter.

[The next page is 435]

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Payment for Water Service
92.05 Lien for Nonpayment
92.06 Lien Exemption
92.07 Lien Notice
92.08 Temporary Vacancy
92.09 Change of Name Notice

92.01 SERVICE CHARGES. Each customer shall pay a monthly surcharge of $4.00 for every hookup. Each location, building, premises or connection shall be considered a separate and distinct customer whether or not owned or controlled by the same person.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Each customer shall pay for water service provided by the City based upon the use of water as determined by the meters provided for in Chapter 91. The usage charge for the water service shall be the sum of $2.48 per thousand gallons used per month, plus the following additional charges:

(Code of Iowa, Sec. 384.84)

Water Meter Tap Size	Additional Charges
¾" – 5/8"	$ 1.00
1"	$ 4.00
1½"	$ 5.00
2"	$ 7.50
3"	$ 12.00
4"	$ 15.00
6"	$ 25.00

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred fifty percent (150%) of the rates provided in Section 92.02. However, the City shall not provide water service to any customer outside its corporate boundaries unless immediately adjacent to boundary. In addition, no such customer will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

92.04 PAYMENT FOR WATER SERVICE. Water service charges are due and payable as part of a combined service account under the same terms and conditions as payment for electric service as established by the Utility Board of Trustees. To the extent that the water service charges are billed as part of a combined service account, utility services may be discontinued in accordance with Section 384.84 of the Code of Iowa if the water charges become delinquent.

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

(Code of Iowa, Sec. 384.84)

92.06 LIEN EXEMPTION.

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. 2013-449 – Oct. 13 Supp.)

(Code of Iowa, Sec. 384.84)

92.07 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.

(Code of Iowa, Sec. 384.84)

92.08 TEMPORARY VACANCY. Property owners, lessees, or tenants may submit a written application to the City Clerk to request a temporary vacancy. Fees for service shall be waived if a property shall be vacant for an extended period of time greater than one calendar month but not to exceed six calendar months. Submitting an application is admission that there will be no use of service during such period of time, including use as a result of maintenance or cleaning of the premises. The Street Superintendent shall turn the water off at the curb during the period of vacancy. Verification of water shutoff will be completed. Property owners, lessees, or tenants shall be required to pay a $30.00 disconnect fee at the time the vacancy begins. Property owners, lessees, or tenants shall notify City Hall at the end of the vacancy period or prior if returning sooner than anticipated so that the Street Superintendent shall turn the water on at the curb. Property owners, lessees, or tenants shall be required to pay a $30.00 reconnect fee at the time the vacancy ends.

92.09 CHANGE OF NAME NOTICE. If a customer is a tenant and requests a change of name under the service account, the owner or landlord of the property or premises may submit a written request for notice of any change of name for service. ***(Ord. 2012-440 – Nov. 12 Supp.)***

[The next page is 441]

CHAPTER 93

WATER LINE EXTENSIONS

93.01 Purpose
93.02 Definitions
93.03 Construction by City
93.04 Construction by Owner
93.05 Rights of City
93.06 Others Required to Connect

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

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

1. "Builder" means the owner of land who causes a water main to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

2. "Estimated cost" means a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances. All such estimates are subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, the materials to be used or installation methods, the determination of the Council shall be final and conclusive. All plans and specifications must have State approval.

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

1. Application and Deposit. A written request for such installation, and a sum equal to the total estimated cost of the installation from the point where the water main is presently installed and terminates to the point where the most distant boundary of the owner's lot abuts the public street, shall be submitted to the Council.

2. Construction. Upon receipt of the deposit, the City shall construct the water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.

3. Additional Costs. In the event the actual cost to the City of installation of the water main is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.

4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder's real estate. In the written request for installation of the water main, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Maximum Cost. The additional cost of installation, as contemplated in subsections 3 and 4 above, shall not exceed one hundred ten percent (110%) of the estimated cost.

6. Connecting Property. The expense of connecting the property of the builder to the water main shall be borne by the builder, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the City.

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

1. City Supervision. The installation of such a water main by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. Surety Bond. When making application to the City for a permit to install such a water main, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be an amount equal to not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing water main to the point where the farthest boundary of the applicant's land abuts the public street, and the bond shall guarantee the installation of the water main in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to public property incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the water main.

3. Ownership of Water Main. After the water main has been installed, it shall become the property of the City.

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

93.06 OTHERS REQUIRED TO CONNECT. Following the installation of an extension to the water system under the provisions of this chapter, owners of land abutting or adjoining a public street in which the water main has been installed, being persons other than the builder, shall be obliged to connect into the water main at the owner's expense.

[The next page is 451]

CHAPTER 95

SANITARY SEWER SYSTEM

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

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20º) C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

18. "Sewer" means a pipe or conduit for carrying sewage.

19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. "Slug" means any discharge of water, sewage, or industrial waste 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 24-hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

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

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

95.06 SERVICE OUTSIDE THE CITY. No sewer service shall be provided to anyone outside the corporate boundaries of the City.

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance

with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

[The next page is 457]

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

96.01 PERMIT. No person shall make any connection to a public sewer or appurtenance thereof without first obtaining a written permit from the City. The permit issued to connect to the public water system shall also authorize the connection to the sewer system. The owner shall complete the 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. Authorization to connect to the public sewer system may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. The person who makes the application for a water permit shall also pay a fee in the amount of two hundred fifty dollars ($250.00) to the Clerk to cover the cost of supervising, regulating, and inspecting the sewer connection work, and a Romac saddle and sleeve plus the labor cost to install and connect.

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

96.04 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *Plumbing Code*, the laws of the State and other applicable rules and regulations of the City.

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

96.06 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the *Plumbing Code*.

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

96.08 ABATEMENT OF VIOLATIONS. Building sewers, whether located upon the private property of any owner or in the public right-of-way, which are constructed or maintained in violation of any of the requirements of this chapter shall be deemed a nuisance and the same shall be abated by the City in the manner provided for the abatement of nuisances.

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

[The next page is 463]

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges
97.05 Restricted Discharges – Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c)

having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. 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 300 parts per million by weight, or (b) reduce the suspended solids to 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 degrees (150º) F (65º C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32º F and 150º F (0º to 65º 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.

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.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

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

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all

applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

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

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

[The next page is 469]

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

SEWER USE CHARGE

99.01 Purpose
99.02 Definitions
99.03 Use of Funds
99.04 Year End Balances
99.05 Charges Based on Usage
99.06 Wastewater Meters
99.07 Application
99.08 Responsibility for Increased Costs
99.09 Payment of Bills
99.10 Lien for Nonpayment
99.11 Lien Exemption
99.12 Change of Name Notice
99.13 Special Agreements Permitted
99.14 Charge Review
99.15 User Notification
99.16 Exemptions

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 additional terms are defined:

1. "Industrial contributor" means any contributor of commercial or industrial waste which is either directly or indirectly discharged into the public sewer system.

2. "Normal domestic wastewater" means wastewater that has a BOD concentration of not more than 235 mg/l and a suspended solids concentration of not more than 235 mg/l.

3. "Operation and maintenance" means all expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for the management and maintenance of said treatment facilities to achieve the capacity and performance for which such works were designed and constructed.

4. "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such facilities were designed and constructed. The term "operation and maintenance" includes replacement.

5. "Residential contributor" means any contributor to the public sewer system whose lot, parcel of real estate or building is used for domestic dwelling purposes only.

6. "Treatment works" means any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual system pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be an integral part of the treatment process or used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land

treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste discharged to the municipal sanitary sewer system.

7. "Useful life" means the estimated period during which the treatment works will be operated.

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.

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

99.04 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. 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.

99.05 CHARGES BASED ON USAGE. Each user shall pay for the services provided by the City based on said user's use of the treatment works as follows:

1. Residential Contributors. Residential contributors shall pay a minimum charge per month in the amount of $9.50 to cover the costs of debt retirement, meter reading, billing and collection. In addition, each residential contributor shall pay a user/flow charge of $5.78 per 1,000 gallons of metered water to cover the costs of debt retirement and operation, maintenance and replacement.

2. Industrial Contributors. Industrial contributors shall pay a minimum charge per month in the amount of $9.50 to cover the costs of debt retirement, meter reading, billing and collection, plus all additional costs that the City incurs for monitoring a particular user's discharge. In addition, each commercial or industrial shall user shall the following charges:

A. $2.13 per 1,000 gallons of metered wastewater, plus

B. $ .281 per pound BOD discharged.

C. $ .523 per pound TSS unit discharge.

D. $2.81 per pound Ammonia – with a threshold of 25 mg/l.

The above rates include costs for operation and maintenance including replacement and the sum of $2.44 per contributor for debt retirement.

99.06 WASTEWATER METERS. All industrial contributors shall be required to install meters for the purpose of measuring discharge and flow into the public sewer system. The meters shall be installed at the customer's expense and shall be approved by the Superintendent.

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

99.08 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 Treatment Plant Superintendent and approved by the Council.

99.09 PAYMENT OF BILLS. All user charges are due and payable as part of a combined service account under the same terms and conditions as payment for electric service as established by the Utility Board of Trustees. To the extent that the user charges are billed as part of a combined service account, utility services may be discontinued in accordance with Section 384.84 of the Code of Iowa if the user charges become delinquent.

99.10 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer user charges to the premises. Sewer user charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified to the County Treasurer for collection in the same manner as property taxes. The provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

99.11 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where sewer service is separately metered and the rates or charges for the sewer service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of sewer service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the sewer service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a sewer service. ***(Ord. 2012-441 – Nov. 12 Supp.)***

99.12 CHANGE OF NAME NOTICE. If a customer is a tenant and requests a change of name under the service account, the owner or landlord of the property or premises may submit a written request for notice of any change of name for service. ***(Ord. 2012-441 – Nov. 12 Supp.)***

99.13 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

99.14 CHARGE REVIEW. The City shall review the user charge system at least every two years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the debt service, the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes in compliance with 40 CFR 35, as amended.

99.14 USER NOTIFICATION. The City shall notify each user at least annually, in conjunction with a regular billing, of the rate being charged for operation and maintenance including replacement of the treatment works.

99.15 EXEMPTIONS. There shall be no exemptions or waivers of fees associated with the sewer use charge services as provided by this chapter as these services are declared to be beneficial to the property served or eligible to be served.

(Sections 99.11—99.14 renumbered as 99.13—99.16 by Ord. 2012-441 – Nov. 12 Supp.)

[The next page is 477]

CHAPTER 100

SEWER EXTENSIONS

100.01 Purpose
100.02 Definition
100.03 Construction by City
100.04 Construction by Owner
100.05 Others Required to Connect
100.06 Building Sewers Installed

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

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

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

1. Application and Deposit. A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distant boundary of the owner's lot abuts the said public street, shall be submitted to the Council.

2. Construction. Upon receipt of the deposit, the City shall construct the sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.

3. Additional Costs. In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.

4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder's real estate. In the written request for installation of the sanitary sewer, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Connecting Property. The expense of connecting the property of the builder to the sanitary sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

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

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

1. City Supervision. The installation of such a sewer by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. Surety Bond. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be an amount equal to not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing sewer to the point where the farthest boundary of the applicant's land abuts the public street, and the bond shall guarantee the installation of the sewer in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to the public street incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the sanitary sewer.

3. Ownership of Sewer Line. After the sewer has been installed, it shall become the property of the City.

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

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

[The next page is 505]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Landscape Waste Required
105.07 Brush Disposal
105.08 Littering Prohibited
105.09 Open Dumping Prohibited
105.10 Toxic and Hazardous Waste
105.11 Waste Storage Containers
105.12 Prohibited Practices

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. "Brush" means brush, tree trimmings, branches, stumps, and shrubbery.

2. "Collector" means any person authorized to collect solid waste from public and private places. ***(Ord. 2012-426 – Jul. 12 Supp.)***

3. "Construction materials" includes the following (but is not limited to the following): shingles, windows, doors, frames, drywall, and insulation.

4. "Discard" means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

5. "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.

6. "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)

7. "Landscape waste" means any vegetable or plant waste except garbage. The term includes garden waste, weeds, leaves, grass, and yard trimmings.

8. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

9. "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.

10. "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)

11. "Residential premises" means a single-family dwelling and any multiple-family dwelling, building or complex of buildings up to and including twelve (12) separate dwelling units. Separate living units that are part of a commercial building shall be deemed residential premises. ***(Ord. 2012-426 – Jul. 12 Supp.)***

12. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

13. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, wood, glass, bedding, crockery or litter of any kind. ***(Ord. 2012-426 – Jul. 12 Supp.)***

(IAC, 567-100.2)

14. "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)

15. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

16. "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 Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material. ***(Ord. 2014-456 – Oct. 14 Supp.)***

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty

(30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

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

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *International Fire Code*.

105.06 SEPARATION OF LANDSCAPE WASTE REQUIRED. All landscape waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises. NOTE: Landscape waste cannot be disposed of along with the regular garbage.

105.07 BRUSH DISPOSAL. All brush shall be disposed of properly on premises or deposited at the City's brush dump as provided. NOTE: Brush cannot be disposed of along with the regular garbage.

105.08 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)

105.09 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. "Rubble" means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.10 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which

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

(IAC, 567-100.2)
(IAC, 567-102.13[2] and 400-27.14[2])

105.11 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 shall be approved and provided by the residential waste hauler of the City. Container weight shall not exceed seventy-five (75) pounds. If use of individual containers is not feasible then the waste hauler may provide dumpsters.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

(Ord. 2012-426 – Jul. 12 Supp.)

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 outdoors at some easily accessible place by the owner or occupant of the premises served. Containers shall be three (3) to four (4) feet apart and away from impediments. ***(Ord. 2012-426 – Jul. 12 Supp.)***

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Contract Requirements
106.08 Collector's License
106.09 Collection Fees
106.10 Lien for Nonpayment
106.11 Lien Exemption
106.12 Change of Name Notice
106.13 Environmental Impact Fee
106.14 Exemptions

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. Recycling from residential premises will be collected at least every other week.

(Ord. 2012-427 – Jul. 12 Supp.)

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 Council.

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

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

project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTOR'S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a 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 the following minimum amounts:

Bodily Injury and Property Damage:

$1,000,000 combined single limit each occurrence

$1,000,000 combined single limit aggregate

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 thirty dollars ($30.00) shall accompany the application.

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, subject to rules and regulations of sanitary disposal project and State and local laws. ***(Ord. 2012-427 – Jul. 12 Supp.)***

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.

106.09 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:

1. Fees. The fees for solid waste collection and disposal service, used or available, for each residential premises and for each dwelling unit of a multiple-family dwelling, shall be as established by the contract between the City and the collector.

2. Payment of Bills. All fees are due and payable as part of a combined service account under the same terms and conditions as payment for electric service as established by the Utility Board of Trustees. To the extent that the fees are billed as part of a combined service account, utility services may be discontinued in accordance with Section 384.84 of the Code of Iowa, if the fees become delinquent.

106.10 LIEN FOR NONPAYMENT. 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.

(Code of Iowa, Sec. 384.84)

106.11 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where collection of solid waste service is separately metered and the rates or charges for the solid waste service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of solid waste service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the solid waste service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to solid waste service. ***(Ord. 2012-442 – Nov. 12 Supp.)***

106.12 CHANGE OF NAME NOTICE. If a customer is a tenant and requests a change of name under the service account, the owner or landlord of the property or premises may submit a written request for notice of any change of name for service. ***(Ord. 2012-442 – Nov. 12 Supp.)***

106.13 ENVIRONMENTAL IMPACT FEE. The City has and will continue to incur expenses for the grinding process, composting and disposal of trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings from within the corporate City limits. The City Council recognizes that said process is a general obligation of the community, and a fee shall be established to cover said costs. All residential dwellings, commercial locations and industrial property within the corporate City limits shall pay a monthly fee in an amount set by resolution of the Council to compensate for said expenses. Such fee shall be collected in monthly utility billing performed by the City or its affiliate Independence Light Power & Telecommunications.

106.14 EXEMPTIONS. An exemption or waiver of fees associated with the collection and disposal of solid waste as provided by this chapter shall be granted only in the instance when the water service has been turned off at the curb and the property served or eligible to be served is vacant. In such instances property owners, lessees, or tenants shall be responsible for all applicable disconnect and reconnect fees. In addition, there shall be no environmental impact fee exemption or waivers as these are on-going, continual costs for grinding, composting, and disposal of trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings within the City.

(Sections 106.11—106.12 renumbered as 106.13—106.14 by Ord. 2012-442 – Nov. 12 Supp.)

[The next page is 531]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Rights and Privileges
110.03 Pipes and Mains
110.04 Construction and Maintenance
110.05 Excavations
110.06 Utility Easements
110.07 Relocation not Required
110.08 Relocation Reimbursement
110.09 Indemnification
110.10 Information
110.11 Applicable Regulations
110.12 Quality and Quantity
110.13 Police Regulations
110.14 Franchise Fee
110.15 Fee Exemptions
110.16 Collection of Fees
110.17 Identifying Customers
110.18 Modifying Fees
110.19 Indemnification
110.20 Fee Remittance
110.21 Fee Administration
110.22 Fee Refunds
110.23 Obligation to Collect
110.24 Obligation Relieved
110.25 Management Fees
110.26 Termination

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company," and its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of the ordinance codified by this chapter.[†]

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

110.03 PIPES AND MAINS. The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing or extending gas pipes, mains, conduits and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on tile with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route or construction method.

[†] **EDITOR'S NOTE:** Ordinance No. 2011-419, adopting a natural gas franchise for the City, was passed and adopted on October 24, 2011.

The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross-section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees at its cost or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

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

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

110.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous 10 years.

110.08 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities as may be required by this franchise, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

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

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

110.10 INFORMATION. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in City right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under State or Federal law or both. Therefore, the City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by State or Federal law on other grounds and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, and Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time.

110.11 APPLICABLE REGULATIONS. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.12 QUALITY AND QUANTITY. During the term of this franchise the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's Tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

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

110.14 FRANCHISE FEE. A franchise fee is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service pursuant to the Tariff and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectable amounts, derived from the sale and distribution service pursuant to the Tariff. City imposes the franchise fee upon the following revenue classes:

- Residential Customers __ percent
- Commercial Customers __ percent
- Industrial Customers __ percent
- Public Authority Customers __ percent
- Transportation Customers __ percent

110.15 FEE EXEMPTIONS. The City may, as allowed by Iowa law, exempt customer classes of sales from imposition of the franchise fee, or modify, decrease or eliminate the franchise fee. The City reserves the right to cancel any or all the franchise fee exemptions and also reserves the right to grant exemptions to customer classes in compliance with Iowa law

and Section 110.17 of this chapter. The City does therefore exempt the customer classes in Section 110.14 from paying franchise fees.

- Customer classes exempted by the City at time of imposing a franchise fee percentage greater than zero (0) percent:

110.16 COLLECTION OF FEES. The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

110.17 IDENTIFYING CUSTOMERS. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City-imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customer classes that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.

110.18 MODIFYING FEES. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed upon date which is not less than 60 days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the City Council.

110.19 INDEMNIFICATION. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

110.20 FEE REMITTANCE. The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows:

- January, February and March
- April, May and June
- July, August and September, and
- October, November and December

MidAmerican shall provide City with notice at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

110.21 FEE ADMINISTRATION. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

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

110.23 OBLIGATION TO COLLECT. The obligation to collect and remit the fee imposed by this chapter is modified or repealed if:

1. Any other person is authorized to sell natural gas at retail to City consumers and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate;

2. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas at retail to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or

3. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final nonappealable order (collectively, "final franchise fee action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After final franchise fee action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

110.24 OBLIGATION RELIEVED. The other provisions of this chapter to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee as, effective as the date specified below with no liability therefor under each of any of the following circumstances as determined to exist in the sole discretion of Company:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court.

2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly.

3. The Iowa Utilities Board, or its successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

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

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

(Ch. 110 – Ord. 2011-419 – Dec. 11 Supp.)

[The next page is 541]

CHAPTER 111

CABLE TELEVISION REGULATIONS

111.01 Franchise Agreement
111.02 Definitions
111.03 Grant of Franchise
111.04 Standards of Service
111.05 Regulation by the Franchising Authority
111.06 Books and Records
111.07 Insurance and Indemnification
111.08 Enforcement and Termination of Franchise
111.09 Miscellaneous Provisions
111.10 Term

111.01 FRANCHISE AGREEMENT. This Franchise Agreement ("Franchise") is between the City of Independence, Iowa, hereinafter referred to as "the Franchising Authority" and MCC Iowa LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware, hereinafter referred to as "the Grantee."[†] The Franchising Authority hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

111.02 DEFINITIONS. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

1. "Basic Cable Service" is the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.

2. "Cable Act" means Title VI of the Communications Act of 1934, as amended.

3. "Cable Services" shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

4. "Cable System" shall mean the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area.

5. "FCC" means Federal Communications Commission or successor governmental entity thereto.

6. "Franchising Authority" means the City of Independence, Iowa.

[†] **EDITOR'S NOTE:** Ordinance No. 375-1206 adopting a cable television franchise for the City was passed and adopted on December 11, 2006.

7. "Grantee" means MCC Iowa, LLC, or the lawful successor, transferee, or assignee thereof.

8. "Gross Revenues" includes revenues received from the operation of the Cable System received by Grantee from Subscribers for Cable Services in the Service Area; provided, however, that Gross Revenues shall not include franchise fees, the FCC User Fee or any taxes imposed on the services furnished by the Grantee, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency. Nor shall it include revenue from other services, which include, advertising, leased channels and programming supplied on a per program or per channel basis.

9. "Person" means an individual, partnership, association, joint stock company, trust, corporation, municipal utility or governmental entity.

10. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System.

11. "Service Area" means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 111.04(9).

12. "Standard Installation" is defined as 125 feet from the nearest tap to the Subscriber's terminal.

13. "Subscriber" means a Person who lawfully receives Cable Service of the Cable System with the Grantee's express permission.

111.03 GRANT OF FRANCHISE.

1. Grant. The Franchising Authority hereby grants to the Grantee a renewal of its nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System for the transmission and distribution of Cable Services, data services, information and other communications services or for any other lawful purposes.

2. Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control.

3. Other Authorizations. The Franchising Authority shall not permit any person to provide services similar to those provided by the Grantee in the Service Area without first having secured a non-exclusive franchise from the Franchising Authority.

The Franchising Authority agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Franchising Authority to provide services similar to those provided by the Grantee pursuant to this Agreement to any other entity shall cover the entire Service Area and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of this Franchise, the Franchising Authority, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that the proposed increased obligations in the renewal, are not more burdensome and/or less favorable than those contained in any such additional franchise(s) or authorizations. Notwithstanding the foregoing, this provision shall not require the Franchising Authority to grant a franchise to a municipally owned telecommunications utility.

111.04 STANDARDS OF SERVICE.

1. Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

2. Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3. Relocation for the Franchising Authority. Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements. The Grantee shall in all cases have the right of abandonment of its property except in the case of aerial facilities.

4. Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than thirty (30) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System. Such trimming shall be conducted by properly trained personnel with a proof of certification upon a minimum of 10 day advance notice to the Franchising Authority.

6. Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable Federal, State, and local regulations and the National Electric Safety Code.

7. Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this subsection shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

8. Notice of Development. The Franchising Authority agrees to provide notice to Grantee of platting process for new subdivisions consistent with the same process for other users of the Public Way.

9. Required Extensions of the Cable System. Grantee agrees to provide Cable Service to all residences in the Service Area subject to the density requirements specified in this subsection. Whenever the Grantee receives a request for Cable Service from a potential Subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least 10 residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

10. Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection 9 above, the Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals ten (10) actual or potential Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a pro rata basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

11. Cable Service to Public Buildings. The Grantee, upon request, shall provide without charge, a Standard Installation and one outlet of Basic Cable Service to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s), and K-12 public schools that are passed by its Cable System. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The Cable Service provided

shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any inappropriate use of the Grantee's Cable System or any loss or damage to Grantee's Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable Service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

12. Reimbursement of Costs. If funds are available to any person using the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority may upon request of the Grantee make application for such funds on behalf of the Grantee.

111.05 REGULATION BY THE FRANCHISING AUTHORITY.

1. Franchise Fee**.**

A. The Grantee shall pay to the Franchising Authority a franchise fee of three percent (3%) of annual Gross Revenues (as defined in this chapter). In accordance with the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be due semi-annually and payable within 90 days after June 30 and December 31 of each respective period. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. Limitation on Franchise Fee Actions. The period of limitation for recovery by the Franchising Authority of any franchise fee payable hereunder shall be five (5) years from the date on which payment by the Grantee is due to the Franchising Authority.

2. Rates and Charges. The Franchising Authority may regulate rates for the provision of Basic Cable Service and equipment as expressly permitted by Federal law.

3. Renewal of Franchise. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the renewal provisions of Federal law.

4. Conditions of Sale. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

5. Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without prior written notice to the Franchising Authority. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness.

111.06 BOOKS AND RECORDS. The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee and no more than once annually may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing Cable Service in the Service Area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

111.07 INSURANCE AND INDEMNIFICATION.

1. Insurance Requirements. The Grantee shall maintain insurance in full force and effect, at its own cost and expense, during the term of the Franchise. The Franchising Authority shall be designated as an additional insured and such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

2. Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System in the Service Area provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within thirty (30) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

111.08 ENFORCEMENT AND TERMINATION OF FRANCHISE.

1. Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the any material term of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of such alleged noncompliance.

2. The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 1: (A) to respond to the Franchising Authority, contesting the assertion of such noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of such default, it cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 1 pursuant to the procedures set forth in subsection 2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to subsection 2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

4. Enforcement. Subject to applicable Federal and State law, in the event the Franchising Authority, after the hearing set forth in subsection 3, determines that the Grantee is in material default of any provision of the Franchise, the Franchising Authority may:

A. Commence an action at law for monetary damages or seek other equitable relief; or

B. In the case of repeated or ongoing substantial non-compliance with a material term or terms of the Franchise, seek to revoke the Franchise in accordance with subsection 5.

5. Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in subsections 1-4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law, and to

question witnesses. A complete verbatim record and transcript shall be made of such hearing.

Following the hearing, the Franchising Authority shall determine whether or not the Franchise shall be revoked. If the Franchising Authority determines that the Franchise shall be revoked, the Franchising Authority shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to an appropriate court which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

6. Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control.

111.09 MISCELLANEOUS PROVISIONS.

1. Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

2. Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority and supersedes all other prior understandings and agreements oral or written. Any amendments to this Franchise shall be mutually agreed to in writing by the parties.

3. Reservation of Rights. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchising Authority acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitutions and laws.

4. Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, c) within five (5) business days after having been posted in the regular mail or d) or the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Independence
331 First St. E
Independence, IA 50644

The notices or responses to the Grantee shall be addressed as follows:

Government Relations Manager
MCC Iowa, LLC
6300 Council St. NE
Cedar Rapids, IA 52402

With a copy to:

Regional Vice President
MCC Iowa, LLC
6300 Council St. NE
Cedar Rapids, IA 52402

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

111.10 TERM. This franchise shall be for a term of five (5) years from the effective date of Ordinance No. 375-1206 and shall expire on December 11, 2011.

[The next page is 605]

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a 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 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

(Code of Iowa, Sec. 123.49 [2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49 [2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49 [2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

(Code of Iowa, Sec. 123.49 [2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. Allow mixed drinks and cocktails that are not for immediate consumption to be mixed or infused on licensed premises, subject to rules adopted by the Alcoholic Beverage Division. ***(Ord. 2012-443 – Nov. 12 Supp.)***

(Code of Iowa, Sec. 123.49)

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration
121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "Alternative nicotine product" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

3. "Place of business" means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.

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. 2014-455 – Oct. 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. 2014-455 – Oct. 14 Supp.)

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	$ 75.00
October, November or December	$ 56.25
January, February or March	$ 37.50
April, May or June	$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of

each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three 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 sixty (60) days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Ord. 2014-455 – Oct. 14 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. ***(Ord. 2014-455 – Oct. 14 Supp.)***

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or

any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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
122.12 Notice
122.13 Hearing
122.14 Record and Determination
122.15 Appeal
122.16 Effect of Revocation
122.17 License Exemptions
122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle 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 twenty-five dollars ($25.00) 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 a peddler or solicitor license.

A. For one day..... $25.00

B. For one week..... $50.00

C. For up to thirty (30) days..... $100.00

D. For one year or major part thereof..... $250.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 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 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 (K-12) who are representing the Independence area schools, conducting projects sponsored by organizations which have been officially 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.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

[The next page is 621]

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application and Fee For Permit
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Issued
123.07 Special Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement and/or Bridges
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION AND FEE FOR PERMIT. 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.

4. Fee for Permit. Payment in the sum of $100.00.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of twenty-five thousand dollars ($25,000.00) 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. Except as provided in Section 123.07, each applicant shall also file a certificate of insurance for public liability insurance to be in effect for the duration of the permit covering the applicant and all agents and employees, which insurance shall be in 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, filing of bond and insurance certificate, the Clerk shall issue a permit. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 SPECIAL PERMIT ISSUED. In the event the applicant will be moving a structure which measures twenty-eight (28) feet or higher, which move would affect the 12,400 volt system of the City, the applicant shall be required to obtain a special permit, to be issued by the Council. The Council shall not issue said permit unless the applicant has provided certification, to the Council, that notice has been given, in writing, by the applicant, to every owner of any building or business which may be affected by the move. These requirements shall be in addition to other provisions of this chapter.

1. Before a permit required by this section is issued, the applicant shall obtain and furnish to the City a certificate of insurance for commercial general liability with minimum limits of $1,000,000/$1,000,000 bodily injury and $1,000,000 property damage. This coverage is to protect for losses while the building to be moved is on the lot and not physically in the street, being pulled.

2. The applicant shall also furnish to the City a business automobile insurance certificate with minimum limits of $1,000,000/$1,000,000 bodily injury and $1,000,000 property damage. This coverage shall include the vehicle pulling the trailer and trailer with load, to protect for losses while the unit is being moved on the public streets and/or highways.

3. The insurance policies shall name the City as an additional named insured and shall provide that the policy cannot be revoked, canceled or modified in any way until the City has been notified by certified mail at least ten days prior to the proposed action.

The holder of the special permit shall be solely responsible for any and all damages that may occur as a result of any interruption in the 12,400 volt system which may occur as a result of said move.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain 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.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT AND/OR BRIDGES. It is unlawful to move any house or building of any kind over any pavement or bridge, 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.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall be responsible for the removal of any overhead wires and poles when said removal is necessary

and, also, shall be responsible for the replacement of the same in good order. Advance notice of a minimum of twenty-four (24) hours shall be given by the holder of the permit to the owner of any overhead wires for the removal of said wires. The owner of said wires may either cause said removal or direct the removal and replacing of said wires and the holder of the permit shall be solely liable for the payment of the reasonable costs thereof.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 124

SURVEILLANCE CAMERAS

124.01 Purpose
124.02 Definitions
124.03 Surveillance Camera Requirement
124.04 System Specifications and Requirements
124.05 System Operation
124.06 Visibility of Premises
124.07 Inspection
124.08 Automatic Banking Machines

124.01 PURPOSE. The purpose of this chapter is to improve the protection to the public and to reduce the potential of injury or death where employees of certain businesses may be exposed to these potentials because of the actions of certain persons with criminal intent.

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

1. "Automatic banking machine" means an automatic machine located outside the main banking institution, accessible to the public and used solely for the purpose of obtaining or depositing money twenty-four hours per day.

2. "Business" means any establishment which remains open to the public for business twenty-four hours a day, except that motels are not considered a "business" under this chapter.

3. "Surveillance camera system" means a video camera system consisting of camera(s), recording device, monitor and other related equipment.

124.03 SURVEILLANCE CAMERA REQUIREMENT. Every business, as defined in this chapter, shall be equipped with a functioning surveillance camera system. The system shall be in operation all hours the business is open to the public. Every business except automatic banking machines shall have a minimum of one surveillance camera installed. Automatic banking machines shall be required to have one surveillance camera installed as set forth in Section 124.08 of this chapter.

124.04 SYSTEM SPECIFICATIONS AND REQUIREMENTS. All surveillance systems shall meet or exceed the following minimum specifications.

1. Any surveillance camera shall be capable of producing black and white or color images, providing at least 325 lines of resolution and capable of acceptable operation in changing light conditions. The surveillance camera must be positioned to record all persons approaching the work station.

2. The recording device shall not be part of the camera. It shall record in VHS format and be capable of recording images produced in either black and white or color. The tapes used must be of good quality and meet the standards of the recording device manufacturer being used and shall not be reused for fourteen (14) days and shall be properly stored for evidence purposes. The recording device used shall depict the time and date of taping and generate that information onto the tape. Tapes shall not be used more than twelve (12) times. In addition, the recording device must have or be capable of: (i) recording at least 12 uninterrupted hours; (ii) having an audible warning when the tape has run out; and (iii) accepting audio as well as video.

3. Surveillance camera recording devices shall be secured in a lockable area or enclosure and not accessible to the general public.

4. The viewing monitor shall be a minimum nine-inch (measured diagonally) screen producing a horizontal resolution of more than 300 TV lines. The monitor shall display an image in black and white or color, dependent on the image produced by the camera. The monitor shall be located within sight of the recording device, so as to be able to review tapes when necessary. The images shown on the monitor shall depict all cameras in use. The images may rotate at intervals of not more than five seconds each. No more than six camera functions shall use devices designed to image more than one camera at a time or to multiplex images. Systems requiring split screen imaging must use a viewing monitor of at least twelve inches (measured diagonally).

124.05 SYSTEM OPERATION. No individual shall tamper with the normal operation of a surveillance camera system or any other security device. A visible sign with one-inch letters must be posted by any business covered by this chapter, which reads: *This business has audio and video recording equipment in use.* The systems must be kept operational during all business hours. If at any time the system becomes inoperable for more than 24 hours, the business management shall notify the Police Department as to cause and solution.

124.06 VISIBILITY OF PREMISES. Every business shall keep and maintain a clear line of vision from the outside of the premises into the interior of said premises. In furtherance of this requirement, windows and glass doors shall not be obstructed with signs or otherwise to the point that said visibility is substantially impaired.

124.07 INSPECTION. The Police Chief shall inspect all new surveillance camera systems upon receipt of the completion certificate. Periodic inspections may be made by the Police Department.

124.08 AUTOMATIC BANKING MACHINES. Automatic banking machines located outside shall have the cameras internally mounted or be enclosed in an environmentally protected enclosure with proper heat and ventilation. The camera shall be so directed to see the face of any person approaching or using said machine.

[The next page is 631]

CHAPTER 125

LICENSING OF ELECTRICIANS

125.01 Purpose
125.02 Exemptions
125.03 Definitions
125.04 Electrical Contractor's License
125.05 License Required
125.06 Apprentices and Helpers
125.07 Homeowners
125.08 Electrician's Examining Board
125.09 Applications For Examinations
125.10 Conduct of Examinations
125.11 Expiration Dates
125.12 License Fees
125.13 Examination Waived
125.14 Electrician's Bond
125.15 License Revocation or Suspension
125.16 Revocation and Suspension Procedures
125.17 Summary Suspension
125.18 Appeal
125.19 Transfer of License

125.01 PURPOSE. The purpose of this chapter is to provide for the examination and licensing of electrical contractors, journeyman electricians and maintenance electricians in order to protect the public safety, health and welfare.

125.02 EXEMPTIONS. The provisions of this chapter do not apply to any of the following:

1. Regular employees of a public utility who do electrical work for such public utility only;

2. The electrical work of a telephone or telegraph company, or the persons, firms or corporations performing electrical work for such a company, where such electrical work is an integral part of the plant used by such telephone or telegraph company in rendering its duly authorized service to the public; and

3. Regular employees of any railroad who do electrical work only as a part of that employment.

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

1. "Electrical contracting" means undertaking, or offering to undertake, the planning or supervision of electrical work.

2. "Electrical contractor" means any person, partnership, firm, corporation or association who has the necessary qualifications, training, experience, and technical knowledge to plan or supervise electrical work.

3. "Electrical equipment" means all electrical materials, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

4. "Electrical work" means all installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnections and maintenance of all electrical equipment.

5. "Journeyman electrician" means a person who has the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work.

6. "Licensed" means licensed under this chapter unless otherwise specified.

125.04 ELECTRICAL CONTRACTOR'S LICENSE. No person shall engage in electrical contracting within the City unless such person shall have obtained from the City an electrical contractor's license. In the case of a partnership, corporation or any other association organized to engage in electrical contracting, every partner, associate, officer, director or manager who is actually engaged as an electrical contractor as defined in this chapter shall obtain an electrical contractor's license.

125.05 LICENSE REQUIRED. No person shall engage in doing electrical work unless licensed as an electrical contractor or journeyman electrician except as provided in Section 125.06 and Section 125.07 of this chapter.

125.06 APPRENTICES AND HELPERS. Apprentices and helpers employed to assist a licensed electrician need not be licensed; provided, however, such apprentices and helpers shall perform their work under the direct supervision of a licensed electrician. The ratio of apprentices and helpers to each licensed electrician shall be two to one. Each licensed electrician will be allowed two (2) helpers. When the fourth person comes on the job site, said person will be required to be licensed and will, in turn, be allowed two helpers. This ratio will be maintained on all job sites regardless of quantity of help involved.

125.07 HOMEOWNERS. The owner or owners of a single family dwelling (or mobile home), including the usual accessory buildings and quarters used exclusively for living purposes, may do electrical work without a license if said homeowner demonstrates a capability to do such work to the satisfaction of the electrical inspector; provided, the dwelling (or mobile home) will be occupied by the owner or owners and a permit shall be issued as provided in the Electrical Code.

125.08 ELECTRICIAN'S EXAMINING BOARD. There is hereby created a board of electrical examiners. The board shall consist of five (5) members. The Electrical Inspector shall be one member; one member shall be a representative of the public; one member shall be a licensed journeyman electrician; one member shall be a licensed electrical contractor; and one member shall be the Manager of the Independence Municipal Light Plant. The Board of Trustees of the Municipal Light Plant shall recommend to the Council, for its approval, the public member, licensed journeyman member and the licensed electrical contractor member who will serve on the Examining Board. The Electrical Inspector shall serve as Secretary to the Board and keep minutes and records of all proceedings and shall record the names and addresses of all persons examined by the Board, the result of the examination, the kind of license issued to each, if any, and the date thereof.

1. Terms. The term of each member other than the Electrical Inspector and Light Plant Manager shall be four (4) years; however, the initial appointments provide for staggered terms so that one term shall expire each year after the first year of the initial appointment.

2. Facilities. The Municipal Light Plant shall provide suitable space in which the examining Board may hold its meetings, and all necessary equipment and facilities for holding examinations. The Municipal Light Plant shall pay the expenses of the examinations.

3. Quorum. Three (3) members of the Examining Board shall constitute a quorum for the transaction of business, but final action of the Board shall require a majority vote of all of its members.

4. Chairperson. The Board of Examiners shall elect annually one of its members as Chairperson. The Chairperson shall preside at all meetings of the Board.

125.09 APPLICATIONS FOR EXAMINATIONS. Any person who desires to be licensed as an electrical contractor or a journeyman electrician shall make application to the Electrical Inspector for an examination. The Electrical Inspector shall provide application forms for this purpose. The completed forms shall include the name of the applicant, home address, business addresses, and a brief resume of training and experience.

125.10 CONDUCT OF EXAMINATIONS. The Examining Board shall meet as often as necessary to conduct examinations of applicants for licenses. The examination shall be practical, written or oral, or a combination thereof, and shall be of such a nature as to test uniformly the capabilities of all applicants for each specific type of license. The applicant shall clearly demonstrate to the Examining Board his or her qualifications for the particular license and show satisfactory knowledge of the methods and standards for doing electrical work under the Electrical Code.

125.11 EXPIRATION DATES. All licenses shall expire on December 31 of each year and shall be renewed annually upon application of the licensee and payment of the license fee to the Municipal Light Plant. Any license not renewed prior to January 15 shall expire and may not be renewed without examination, except on recommendation of the Examining Board.

125.12 LICENSE FEES. Before any license is issued, the applicant shall pay a license fee. License fees shall be charged according to the following schedule:

1. Electrical Contractor: annual fee of $75.00

2. Journeyman Electrician: annual fee of $20.00

125.13 EXAMINATION WAIVED. Any electrical contractor or journeyman electrician who holds a certificate of competency or license from another city that has similar licensing standards and who produces credentials showing proper accreditation as an electrical contractor or journeyman electrician shall be excused from the examination required under this chapter if the Examining Board approves said credentials.

125.14 ELECTRICIAN'S BOND. Any person who has been issued a license as an electrical contractor or a journeyman electrician shall execute and deposit with the Municipal Light Plant a bond in the amount of five thousand dollars ($5,000.00), with surety approved by the Municipal Light Plant Board of Trustees. This bond is to be held as surety that the licensee will fulfill these conditions:

1. Conform With Code. All electrical work performed by the licensee or under the supervision of the licensee shall be performed in accordance with the provisions of the Building Code and the Electric Code.

2. Liability. The Municipal Light Plant and the City shall be free from any liability sustained by reason of the negligence or incompetence of such electrical contractor or other person working under the supervision of the electrical contractor.

Any person who has applied for a contractor's license shall provide proof of insurance coverage with a Certificate of Insurance before a license is issued. Minimum insurance requirements are as follows: General Liability: bodily injury and property damage combined occurrence: $1,000,000.00; General Liability: bodily injury and property damage combined

aggregate: $2,000,000.00; General Liability: personal injury aggregate: $1,000,000.00; Automobile Liability: bodily injury and property damage combined $1,000,000.00; Excess Liability: umbrella form, each occurrence: $1,000,000.00; Excess Liability: umbrella form, aggregate: $1,000,000.00; Worker's Compensation and Employers' Liability, each accident: $500,000.00; Worker's Compensation and Employers' Liability, disease policy limit: $500,000.00; Worker's Compensation and Employers' Liability: decease - each employee: $500,000,00.

125.15 LICENSE REVOCATION OR SUSPENSION. In addition to penalties otherwise provided, the Examining Board may order, in accordance with the provisions of Section 125.16 or Section 125.17 of this chapter, revocation or suspension of any license issued under this chapter.

125.16 REVOCATION AND SUSPENSION PROCEDURES. No order of license revocation or suspension, except as provided in Section 125.17, shall be lawful unless the following requirements have been satisfied:

1. Notice. The licensee shall be served with written notice containing assertions of fact or conduct which warrant the intended action, reference to ordinance provisions allegedly violated, and specification of the time, place and nature of the hearing. The written notice shall be served by personal service as provided in Iowa Rules of Civil Procedure 56.1 or forwarded to the last known address by certified mail, return receipt requested. In the event that neither of these methods is successful in establishing receipt of notice, then written notice shall be published. This publication shall then form the basis for further proceeding.

2. Hearing. The Examining Board shall conduct a public hearing for the purpose of resolving those issues of law and fact arising out of the individual case. Should the licensee or an authorized representative fail to appear without good cause, the Board of Examiners may proceed, in the licensee's absence, to a determination of the issues.

3. Rights of Licensee. The licensee 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. Record and Order. The Examining Board shall make and record findings of fact and conclusions of law and shall issue an order of suspension or revocation only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter, the Building Code, or the Electric Code.

125.17 SUMMARY SUSPENSION. If the Examining Board finds that the public health or safety requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending Section 125.16 suspension or revocation proceedings. Immediately, upon issuance of an order of summary suspension, the Examining Board shall institute proceedings pursuant to the requirements of Section 125.16.

125.18 APPEAL. In the event any person shall feel aggrieved by any action of the Examining Board, said person may appeal from such action to the Board of Trustees of the Municipal Light Plant by filing written notice of the appeal within ten (10) days after the date of action. The Board of Trustees shall give the appealing party and the Examining Board five (5) days' written notice by certified mail of the date, time, and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the Board of Trustees may affirm, modify or overrule the action of the Examining Board. Action taken by the Examining

Board shall be affirmed by the Board of Trustees if such action is supported by substantial evidence upon the whole record.

125.19 TRANSFER OF LICENSE. It is unlawful for any license holder to transfer his or her license or to allow it to be used, directly or indirectly, by any other person.

[The next page is 651]

CHAPTER 126

LICENSING OF TAXICABS

126.01 License Required
126.02 Application For License
126.03 Insurance Required
126.04 Duty of Clerk On Revocation
126.05 Vehicle Condition
126.06 Owners' Names Required
126.07 Revocation
126.08 License Fees
126.09 Drivers
126.10 Driver's License Fee
126.11 License Revoked
126.12 Stands
126.13 Drivers Employed
126.14 Intersections

126.01 LICENSE REQUIRED. No motor vehicle shall be operated on the streets and public ways of the City for the purpose of carrying persons for hire unless it conforms with the regulations as provided in this chapter and unless it is duly licensed in accordance with the provisions of this chapter.

126.02 APPLICATION FOR LICENSE. An application for a taxicab license shall be made by the owner thereof to the Council through the Clerk. The application shall contain the name and address of the owner, and the make, model, and year of manufacture, and the motor vehicle license number, engine number, and factory number.

126.03 INSURANCE REQUIRED. No license to operate a taxicab shall be issued unless the owner shall have filed with the Clerk an insurance policy issued by an insurance company licensed to do business in the State, providing insurance coverage for such taxicab with a minimum liability of ten thousand dollars ($10,000.00) for the injury or death of any one person, and minimum liability of twenty thousand dollars ($20,000.00) for the injury or death of any number of persons in one accident, and a minimum liability of five thousand dollars ($5,000.00) for property damage in any one accident. Said policy shall provide by endorsement therein that it cannot be canceled until ten (10) days' notice of such cancellation has been given to the Clerk. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically revoke and terminate all licenses issued for a taxicab covered by such insurance policy unless another policy complying with this section shall be provided and in effect at the time of such cancellation or termination.

126.04 DUTY OF CLERK ON REVOCATION. When any taxicab license is revoked or canceled as herein provided, it shall be the duty of the Clerk to immediately notify the owner to cease at once to operate the vehicle for which such license has been revoked as a taxicab and to immediately notify the Police Chief to recover said license and to return it to the Clerk.

126.05 VEHICLE CONDITION. No vehicle shall be licensed until it has been examined by the Police Chief and found to be in a satisfactory and safe condition for the transportation of passengers, clean, and in compliance with all the other provisions of this chapter. The Police Department shall inspect every taxicab on an annual basis.

126.06 OWNERS' NAMES REQUIRED. Every taxicab licensed under the provisions of this chapter shall have the name of the owner thereof plainly printed in the center of the main panel of each rear door of said vehicle.

126.07 REVOCATION. Licenses granted under this chapter may be suspended or revoked at any time by the Council if the vehicle is not of good appearance, clean and safe, and complying in all other respects with the provisions of this chapter.

126.08 LICENSE FEES. There shall be a license fee for each taxicab license, which license shall be for one year, beginning July 1 of each year and expiring June 30 of each year. The following fees are the license fees for each license year or any fraction thereof and shall be paid in advance:

1. For the first taxicab license to any one owner, $50.00.

2. Each additional license to the same owner, $25.00.

126.09 DRIVERS. Every person driving a taxicab must be licensed as such and each applicant for a driver's license must fulfill the following requirements:

1. Be at least twenty-one (21) years of age.

2. Be clean in dress and person and not addicted to the use of intoxicating liquors or habit-forming drugs.

3. Fill out a statement giving full name, residence, place of previous employment, whether said applicant has ever been convicted of a felony or a misdemeanor and whether he or she has ever had a driver's or chauffeur's license revoked or suspended, and if so, for what cause. Said statement must be signed and sworn to by the applicant and filed with the Police Chief.

126.10 DRIVER'S LICENSE FEE. The fee for the issuance of a driver's license issued under this chapter, or the renewal thereof, shall be in the amount of $25.00. Every taxicab driver's license shall expire on June 30 of each year.

126.11 LICENSE REVOKED. A taxicab driver's license may be suspended or revoked for any cause deemed sufficient by the Council or any judge or district court. No driver whose license has once been revoked shall again be licensed as a cab driver in the City before the expiration of one year.

126.12 STANDS. Taxicab stands shall be located in the Business District of the City at such places as the Council shall provide by resolution from time to time. Such stands shall be plainly marked by appropriate signs which shall be provided by the Police Chief.

126.13 DRIVERS EMPLOYED. It is unlawful for any person operating a taxicab upon the streets of the City to employ as a driver of such taxicab any person other than a driver duly licensed under the provisions of this chapter.

126.14 INTERSECTIONS. It is unlawful for the driver of a vehicle licensed hereunder to pick up or discharge passengers within twenty (20) feet of any intersection in the Business District.

[The next page is 657]

CHAPTER 127

ADULT ENTERTAINMENT

127.01 Definitions **127.02 Regulations**

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

1. "Adult amusement or entertainment" means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.

2. "Adult book store or gift shop" is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

3. "Adult hotel or motel" means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the individuals therein.

4. "Adult photo studio" is an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities, as defined herein.

5. "Adult theater" is a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the patrons therein.

6. "Adult uses" includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater and massage parlor.

7. "Massage parlor" is any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on specified sexual activities or specified anatomical areas, as defined herein, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician's direction, physical therapist, podiatrist, registered speech pathologist and physical or occupational therapist who treats only patients recommended by a licensed physician and operates only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices, and includes Turkish bath houses. The term does not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

8. "Specified anatomical areas" means less than completely and opaquely covered human genitalia, pubic region, buttocks; and a female breast below a point above the top of the areola; and human male genitals in a discernibly turgid state — even if completely and opaquely covered.

9. "Specified sexual activities" means patently offensive acts, exhibitions, representations, depictions or descriptions of:

A. Human genitals in a state of sexual stimulation or arousal;

B. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;

C. Intrusion, however, slight, actual or simulated, by an object, of any part of an animal's body or any part of a person's body into the genital or anal openings of any person's body;

D. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated;

E. Flagellation, mutilation or torture, actual or simulated, in a sexual context.

127.02 REGULATIONS.

1. Location. An adult use shall not be located within 1,000 feet of another adult use, nor shall the adult use be located within 1,000 feet of any public or parochial school, regularly scheduled school bus stop, licensed day care facility, church, public park, or any dwelling (one-family, two-family or multiple dwelling) or within 1,000 feet of City Hall. The 1,000-foot restriction shall be computed by measurement from the nearest property line of the land used for another adult use or in the case of any regularly scheduled school bus stop, public or parochial school, licensed day care facility, church, public park, dwelling or City Hall, by measurement to the nearest entrance of the building in which adult uses are to occur, using a route of direct horizontal distance.

2. Concealment. All building openings, entries, windows, etc., of an adult use shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. Advertisements, displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, walkways or from other public or semi-public areas.

3. Minors. No minor shall be permitted in any establishment in which adult uses are permitted.

4. Alcohol. No alcohol shall be permitted in any establishment in which adult uses are permitted, unless such is specifically allowed pursuant to the Code of Iowa. This prohibition applies equally to the proprietor and the patrons of the establishment involved.

5. Public Exposure. Except as hereinafter provided, no person shall expose those parts of his or her body which are hereinafter listed to another in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person or persons located in any public place:

A. A woman's nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.

B. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

This subsection does not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or such other places where such exposures occur incident to the prescribed use of those facilities. This subsection also does not apply to exposures occurring in live stage plays, live theatrical performances or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

[The next page is 705]

CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner 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.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum amount of five thousand dollars ($5,000.00) and in a maximum amount of fifteen thousand dollars ($15,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. The amount of the bond shall be determined by the City Manager, depending upon the size and complication of the proposed project.

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, parkways and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit 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.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW.

1. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, driveways, parking lots or alleys onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein.

2. Any business, whether retail or wholesale, abutting on or located within the business district described below may place ice and snow from sidewalks along the curb of the abutting street for removal by the City. Snow and ice from private property, parking lots, driveways, and alleys will not be permitted to be placed onto a street. Any other removal of snow or ice accumulations by the City shall be at the expense of the owner, tenant or person in charge of the business.

Commencing at the intersection of Second Street NW and Second Avenue NW, thence easterly extending to the intersection of Second Street NE and Sixth Avenue NE, thence southerly to the intersection of Sixth Avenue SE and Second Street SE, thence westerly to the intersection of Second Street SW and Second Avenue SW, thence northerly to the intersection of Second Avenue NW and Second Street NW.

(Ord. 2011-418 – Dec. 11 Supp.)

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

[The next page is 715]

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice and Accumulations
136.04 Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Permit Required
136.08 Sidewalk Standards
136.09 Barricades and Warning Lights
136.10 Failure to Repair or Barricade
136.11 Interference with Sidewalk Improvements
136.12 Encroaching Steps
136.13 Openings and Enclosures
136.14 Fires or Fuel on Sidewalks
136.15 Defacing
136.16 Debris on Sidewalks
136.17 Merchandise Display
136.18 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:

A. Vertical separations equal to three-fourths (¾) inch or more.

B. Horizontal separations equal to one-half (½) inch or more.

C. Holes or depressions equal to three-fourths (¾) inch or more and at least four (4) inches in diameter.

D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half (½) inch or more.

E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths (¾) inch or more.

F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

G. A sidewalk with any part thereof missing to the full depth.

H. A change from the design or construction grade equal to or greater than three-fourths (¾) inch per foot.

3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. "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.

6. "Portland cement" means any type of cement except bituminous cement.

7. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

8. "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.

9. "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 twenty-four (24) hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. A minimum charge of $50.00 per occurrence shall be charged for such removal by the City.

(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.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.

11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such

dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.14 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

[The next page is 731]

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
13.4	March 28, 1957	221-0896	August 12, 1996
13.5	October 8, 1962	229-1196	November 12, 1996
13.6	Undated	236-0697	June 9, 1997
13.7	Undated	242-0897	August 25, 1997
13.9	April 13, 1964	243-0997	September 8, 1997
13.10	Undated	287-0300	March 13, 2000
13.11	January 11, 1965	295-0900	September 25, 2000
14.8	Undated	306-1001	October 8, 2001
14.10	Undated	313-1101	November 26, 2001
14.11	Undated	354-1105	November 28, 2005
14.14	Undated	2011-416	July 25, 2011
14.15	Undated	2013-444	February 25, 2013
14.22	Undated	2013-445	March 25, 2013
14.26	Undated	2013-446	August 12, 2013
14.27	Undated	2013-447	August 12, 2013
14.28	Undated		
14.31	January 21, 1958		
14.32	June 10, 1958		
14.33	March 10, 1959		
14.34	May 12, 1959		
14.35	October 13, 1959		
14.36	Undated		
14.38	May 31, 1961		
6-0980	October 27, 1980		
22-1081	October 12, 1981		
25-0182	January 25, 1982		
35-1182	November 22, 1982		
70-0685	June 10, 1985		
99-0587	May 26, 1987		
107-0888	August 8, 1988		
142-0791	July 8, 1991		
152-1091	October 28, 1991		
158-0692	June 22, 1992		
159-0792	July 13, 1992		
187-0394	March 28, 1994		
206-0595	May 8, 1995		

CHAPTER 138

STREET GRADES

138.01 Established Grades **138.02 Record Maintained**

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The grades for streets and alleys within the City are recorded and maintained in a book known as *Grade Book for the City of Independence, Iowa*, which book is in the custody of the City Engineer.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
8.1	1954		
8.1A	February 13, 1968		
8.1B	December 27, 1968		
8.1C	June 29, 1970		
8.1D	July 13, 1971		
8.1E	September 12, 1972		
8.1F	August 14, 1973		
8.1G	May 7, 1974		
8.1H	May 13, 1975		
8.1I-76	June 18, 1976		
14.5	Undated		
14.7	Undated		
14.9	Undated		
14.16	Undated		
14.17	Undated		
14.18	Undated		
57-0884	August 27, 1984		
133-0391	March 25, 1991		
168-1292	December 14, 1992		
191-0594	May 23, 1994		
215-0496	April 8, 1996		

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names
139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Independence, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility
140.06 Permitted Access Points
140.07 Speed Limits
140.08 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term "controlled access facility" means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. FN-5 and FN-782. On the Primary Road System extension improvement, Project No. FN-5 and FN-782, Primary Roads Highway 939 and Iowa No. 150, within the City, described as follows:

From Station 492 + 156 to Station 508 + 30, Project FN-5, on Highway 939; from Station 0 +84 to Station 19 +89, Project FN-782, on Iowa 150,

regulating access to and from abutting properties along said highways all in accordance with the plans for such improvement identified as Project No. FN-5 and FN-782 on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.

2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.

3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.

4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

140.06 PERMITTED ACCESS POINTS. Points of access are hereby permitted as follows:

(Code of Iowa, Sec. 306A.4)

1. Projects No. FN-5 and FN-782. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Projects No. FN-5 and FN-782 is hereby recorded as follows:

STATION	SIDE OF STREET	WIDTH	PURPOSE
1+17	west and east	Centerline	11th Street NE
1+42 TO 3+00	east	158 feet	Commercial
3+05	west	14 feet	Residential
3+80	east	18 feet	Residential
5+02.4	west	Centerline	12th Street NE
6+50	east	Centerline	Street
A list of driveways and entrances provided for access on Highway 939 is as follows:			
493+16	North	15 feet	Residential
494+60	North	Centerline	Street
496+50	North	Centerline	12th Avenue NE
497+30	South	Centerline	Subdivision
500+99	North	30 feet	Street
502+86	North	Centerline	Street
505+47	North	Centerline	Residential
508+22	North	16 feet	Farm Entrance
Third Avenue South from Highway 939			
6+12	Right	30 feet	Residence
4+36	Right	36 feet	Commercial
0+36	Left	36 feet	Commercial
1+36	Left	36 feet	Commercial
2+93	Left	36 feet	Commercial
3+73	Left	40 feet	Commercial
4+45	Left	36 feet	Commercial
5+80	Left	30 feet	Commercial
6+00	Right	79 feet	Joint Commercial & Residence
6+85	Right	30 feet	Commercial
7+72	Right	25 feet	Commercial
8+35	Right	39 feet	Commercial
9+38	Right	16 feet	Residence
11+53	Right	16 feet	Residence
12+27	Left	40 feet	Cemetery
14+87	Left	16 feet	Residence

STATION	SIDE OF STREET	WIDTH	PURPOSE
15+33	Right	16 feet	Residence
15+55	Left	16 feet	Residence
15+91	Right	30 feet	Joint Residence
18+36	Left	16 feet	Residence
18+68	Right	16 feet	Residence
19+21	Right	16 feet	Residence
22+38	Right	16 feet	Residence
22+58	Left	16 feet	Residence
23+31	Right	16 feet	Residence
25+68	Left	30 feet	Joint Residence
27+45	Left	16 feet	Residence
27+76	Left	47 feet	Commercial
29+34	Left	76 feet	Commercial
30+33	Left	55 feet	Joint Commercial
Fifth Avenue North from Highway 939			
0+20	Left	40 feet	Commercial
0+20	Right	28 feet	Commercial
0+72	Right	35 feet	Commercial
0+83	Left	39 feet	Commercial
1+28	Left	20 feet	Commercial
1+49	Right	16 feet	Residence
1+64	Both	16 feet	Residence
2+15	Right	16 feet	Commercial
9+36	Right	16 feet	Residence
9+57	Right	16 feet	Residence
10+73	Left	36 feet	Commercial
11+47	Left	16 feet	Residence
18+13	Right	16 feet	Residence
19+48	Right	16 feet	Residence
20+17	Right	16 feet	Residence
20+19	Left	16 feet	Residence
21+46	Left	20 feet	Commercial
21+91	Left	32 feet	Commercial
22+10	Right	16 feet	Residence
22+82	Right	32 feet	Joint Residence
23+56	Right	16 feet	Residence
25+70	Left	36 feet	Commercial
26+75	Left	42 feet	Joint Commercial
27+30	Left	24 feet	Commercial
29+7	Right	16 feet	Residence
29+72	Right	20 feet	Commercial
30+34	Left	64 feet	Commercial
30+93	Right	16 feet	Commercial
31+49	Right	68 feet	Commercial
31+71	Left	58 feet	Commercial
32+15	Right	40 feet	Commercial
32+44	Left	32 feet	Commercial
34+3	Right	20 feet	Commercial
34+46	Right	24 feet	Commercial
35+50	Right	100 feet	Commercial

STATION	SIDE OF STREET	WIDTH	PURPOSE
36+67	Right	20 feet	Residence
41+92	Right	36 feet	Commercial
48+15	Right	24 feet	Commercial
49+82	Right	16 feet	Residence
51+46	Right	16 feet	Residence
52+24	Right	16 feet	Residence

140.07 SPEED LIMITS. The maximum speed limits on said projects are hereby established as follows:

1. Projects No. FN-5 and FN-782. Speed limits on Projects No. FN-5 and FN-782 are as follows:

A. Iowa Highway No. 150 – 30 mph from Station 0+84 to Station 6+68.

B. Highway 939 – 30 mph from Station 492+15.6 to Station 560+40.

140.08 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.

2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.

3. Project No. FN-782. Parking of any nature is prohibited on Project No. FN-782 in any of the following specifically designated locations:

A. East Third Avenue (Iowa No. 150), on both sides, from the south corporate line to First Street.

B. East Fifth Avenue (Iowa No. 150 North), on both sides, from First Street north to the north corporate line, with the exception that a single lane of parallel parking will be permitted on the east side of East Fifth Avenue from First Street north two (2) blocks to Third Street.

4. Projects No. FN-5 and FN-782. Parking of any nature is prohibited on Projects No. FN-5 and FN-782 in any of the following specifically locations:

A. Highway No. 939, on the north side, from Station 492+15.6 to Station 508+30.

B. Highway No. 939, on the south side, from Station 492+15.6 to Station 500+40.

C. Iowa Highway No. 150, on the west side from Station 0+84 to Station 6+68.

D. Iowa Highway No. 150, on the east side, from Station 0+84 to Station 19+89.

[The next page is 751]

CHAPTER 141

CURB CUTS

141.01 Location of Curb Openings
141.02 Width and Number of Curb Openings
141.03 Method of Cutting Curb
141.04 Permit Required for Construction of Driveway Entrance
141.05 Improper Construction of Driveway Entrance to Nullify Permit
141.06 Driveway Width
141.07 Type of Surface

141.01 LOCATION OF CURB OPENINGS. Curb openings shall be placed on the center of existing or proposed driveways. No opening, however, shall extend beyond the side lines of the owner's premises.

141.02 WIDTH AND NUMBER OF CURB OPENINGS. The curb opening for a single drive shall not be less than sixteen (16) feet or more than twenty (20) feet; the opening for a double drive shall not exceed twenty-four (24) feet in width; the opening for a triple drive shall not exceed thirty-six (36) feet; and additional stalls in excess of three shall be granted an additional twelve (12) feet per stall. In general, only one opening shall be granted per residence in residential areas. The Council may grant additional openings in special cases such as for larger corner lots, etc. The width and number of curb openings for business and commercial places shall be determined as to the need by the City Manager. Any opening onto a State-owned road will have to be approved by the State Department of Transportation and the City Manager.

141.03 METHOD OF CUTTING CURB. Curb shall be saw-cut to the desired opening by cutting curbs only to street surface. Only if street and curb conditions are in such condition that replacement may be required shall the curb and street be removed and replaced as follows: No expansion joint will be used between drive and existing pavement. One-half inch (1/2") pre-formed expansion joint is to be used between drive and existing pavement when existing curb drop is used.

141.04 PERMIT REQUIRED FOR CONSTRUCTION OF DRIVEWAY ENTRANCE. Prior to the cutting of any curb openings, a building permit shall be obtained. The permit will be issued after application and approval by the Building Department and City Manager.

141.05 IMPROPER CONSTRUCTION OF DRIVEWAY ENTRANCE TO NULLIFY PERMIT. Failure of property owner to build or have built a driveway entrance in accordance with this chapter shall nullify the permit and subject the entrance to removal.

141.06 DRIVEWAY WIDTH. The driveway width at the owner's property line shall not be less than ten (10) feet for a single drive, not less than eighteen (18) feet for double drives, not less than twenty-six (26) feet for triple drives and eight (8) feet per additional stall in excess of three shall be added. Any widths that vary from these requirements shall first be approved by the City Manager. Where possible, no drive shall be placed nearer than three (3) feet to the side lines of owner's premises.

141.07 TYPE OF SURFACE. From property line to the street shall be six (6) inches of 4000 PC concrete with ½-inch rebar four (4) feet OC, on center each way, or five-inch crushed stone base, with four (4) inches asphaltic concrete overlay.

[The next page is 775]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner
145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Building Official 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. Collapse of Member. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

2. Wind Resistance. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty (20) pounds per square foot.

3. Material Deterioration. Whenever any portion thereof has cracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

4. 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.

5. 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.

6. Exterior Walls. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

7. Deterioration. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

8. Damaged Structurally. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, 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.

10. Fire Hazard. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

11. Public Nuisance. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

12. 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 INDEPENDENCE, 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; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

[The next page is 785]

CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions
146.02 Conversion to Real Property
146.03 Foundation Requirements

146.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:
(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 147

MANUFACTURED AND MOBILE HOME PARKS

147.01 Definitions
147.02 Limitations on Use
147.03 Park Development Plan
147.04 Area
147.05 Yards
147.06 Required Separation; Accessory Uses and Appurtenances
147.07 Park Perimeter General Area Requirements
147.08 Soil and Ground Cover Requirements
147.09 Site Drainage Requirements
147.10 Lot Markers
147.11 Park Areas For Accessory Uses
147.12 Required Recreation Areas
147.13 Park Street Systems
147.14 Required Parking Areas
147.15 Walks
147.16 Manufactured Home/Mobile Home Stands
147.17 Water Supply
147.18 Water Distribution System
147.19 Individual Water Riser Pipes and Connections
147.20 Sewage Disposal
147.21 Sewer Lines
147.22 Individual Sewer Connections
147.23 Electrical Distribution System
147.24 Main Electrical Power Distribution Lines
147.25 Individual Electrical Connections
147.26 Required Grounding
147.27 Service Building and Other Community Service Facilities
147.28 Refuse Handling
147.29 Insect and Rodent Control
147.30 Natural Gas System
147.31 Liquefied Petroleum Gas Systems
147.32 Fuel Oil Supply Systems
147.33 Fire Protection
147.34 Responsibilities of Park Management
147.35 Responsibilities of Park Occupants
147.36 Restriction on Occupancy
147.37 Variations and Exceptions
147.38 Occupancy
147.39 Storage
147.40 Occupancy Permit
147.41 Storm Shelters
147.42 Compliance of Existing Manufactured Home/ Mobile Home Parks

147.01 DEFINITIONS. The following definitions are applicable to the terms used in this chapter.

1. "Accessory use" means a use incidental to the primary use of the manufactured home/mobile home park such as direct service facility building, park management building, maintenance building, community buildings, or other uses of a similar nature.

2. "Approved manufactured home/mobile home park development plan" means a manufactured home/mobile home park development plan approved by the City.

3. "Appurtenance" means an attached or detached enclosed addition to a manufactured home/mobile home, situated on the manufactured home/mobile home lot for the use of its occupants, such as an enclosed carport, garage, tenant storage shed, or items of a similar nature.

4. "Building codes" means those applicable codes enforced by the Building Department of the City.

5. "Common area" means any area or space designed for joint use of tenants occupying manufactured home/mobile home parks.

6. "Community building" means any building housing toilet and bathing facilities for men, women and children, a slop-water sink and such other facilities as may be required by this chapter or the Code of Iowa.

7. "Density" means the number of manufactured homes/mobile homes or manufactured home/mobile home lots and/or parking spaces per acre.

8. "Driveway" means a private way used by vehicles and pedestrians on a manufactured home/mobile home lot.

9. "Easement" means a vested or acquired right to use land, other than a tenant, for a specific purpose, such right being held by someone other than the owner who holds title to the land.

10. "Electric park receptacle" means the waterproof, attachment receptacle device located adjacent to the water and sewer outlets to receive the flexible cable from the manufactured home/mobile home or, where required, the permanently installed conductors.

11. "Electric service drop" means that part of the electric distribution system from the main electrical distribution equipment overhead or underground to the service equipment serving one or more manufactured home/mobile home spaces.

12. "Existing installation" means those installations which were constructed before the effective date of the ordinance codified in this chapter.

13. "Front" means that part of the manufactured home/mobile home facing toward the approved street or right-of-way as required by this chapter.

14. "Manufactured home/mobile home" means a transportable, single-family dwelling unit suitable for year-round occupancy, having no foundation other than wheels, jacks, piers or skirting, and containing water supply, waste disposal, heating and electrical conveniences.

15. "Manufactured home/mobile home lot" means a parcel of land for the placement of a single manufactured home/mobile home and the exclusive use of its occupants.

16. "Manufactured home/mobile home park" means a parcel of land under single ownership which has been planned and improved for the placement of manufactured homes/mobile homes for non-transient use.

17. "Manufactured home/mobile home park development plan" means a custom-made design for a specific site or area consisting of drawings, maps, and engineering details to set forth the boundary, topography and overall park design, including streets, parking facilities, manufactured home/mobile home lot locations and service facilities.

18. "Manufactured home/mobile home stand" means that part of an individual manufactured home/mobile home lot which has been reserved for the placement of the manufactured home/mobile home and any appurtenances thereto.

19. "Motorized home" means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

20. "New installation" means those which are proposed for construction after the effective date of these rules and regulations.

21. "Patio" means a surfaced outdoor living space designed to supplement the manufactured home/mobile home living area.

22. "Permit" means a written permit issued by the City, where applicable, permitting the construction, alteration and extension of a manufactured home/mobile home park under the provisions of this chapter and regulations issued hereunder.

23. "Pickup camper" means a structure designed primarily to be mounted on a pickup, truck chassis or 5th-wheel travel trailer and with sufficient equipment to render it suitable for use as a temporary or permanent dwelling.

24. "Plat" means a map, plan, or chart of a City section, or subdivision, indicating the location and boundaries of individual properties.

25. "Private street" means a private way which affords principal means of access to abutting properties.

26. "Property line" means a recorded boundary of a plat.

27. "Public street" means a public way which affords principal means of access to abutting properties.

28. "Public system (water or sewage)" means a system which is owned and operated by a local governmental authority or by an established public utility company, which is adequately controlled by governmental authority. Such systems are usually existing systems serving the city or a water or sewer district established and directly controlled under the laws of the State of Iowa.

29. "Right-of-way" means the area, either public or private, over which the right of passage exists.

30. "Roadway" means that portion of the manufactured home/mobile home park street system that is surfaced for the actual travel or parking of vehicles, and including curbs.

31. "Sewer connection" means the connection consisting of all pipes, fillings, and appurtenances from the drain outlet of the manufactured home/mobile home to the inlet of the corresponding sewer riser pipe of the sewage system serving the manufactured home/mobile home park.

32. "Sewer riser pipe" means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each manufactured home/mobile home lot.

33. "Single ownership" means a person or legal entity owning the whole park.

34. "Skirting" means the materials and construction around the perimeter of a manufactured home/mobile home floor between the bottom of the manufactured home/mobile home floor and the grade level of the manufactured home/mobile home stand.

35. "Tenant storage" means an enclosed space designed to provide auxiliary general storage space for an individual manufactured home/mobile home.

36. "Transient use" means the occupancy of a manufactured home/mobile home lot by a manufactured home/mobile home for a period of 14 days or less.

37. "Travel trailer" means a vehicular, portable structure on a chassis, designed to be used as a temporary dwelling.

38. "Water connection" means the connection consisting of all pipes and fittings from the water riser pipe to the water inlet pipe of the distribution system within the manufactured home/mobile home.

39. "Water riser pipe" means that portion of the water supply system serving the manufactured home/mobile home park which extends vertically to the ground

elevation and terminates at a designated point at each manufactured home/mobile home lot.

40. "Yard" means the area on the same lot with a manufactured home/mobile home between the lot line and the front, rear, or side of the manufactured home/mobile home.

147.02 LIMITATIONS ON USE. The area proposed for a manufactured home/mobile home park shall have at least five (5) acres of gross development area. Such area may be developed in two (2) or more stages, provided that said stages conform in all respects with the overall Manufactured Home/Mobile Home Park Development Plan. Occupancy shall not be permitted until all facilities and improvements are installed and operational for the lots to be occupied. The maximum density allowed for the gross development area shall be eight (8) manufactured home/mobile home units per acre. No manufactured home/mobile home shall be connected to water, sewer or electrical service unless the manufactured home/mobile home complies with the standards and requirements prescribed by *Standard for Manufactured Homes*, USAS A199.1, 196311 and amendments thereto, published by United States of America Standards Institute, as applicable, or an equivalent standard. Compliance with such standard shall be determined by the Building Official of the City. A certificate issued by the manufacturer of the manufactured home/mobile home shall be permanently affixed in a readily visible location on the exterior of the manufactured home/mobile home as prima facie evidence of such compliance.

147.03 PARK DEVELOPMENT PLAN.

1. No manufactured home/mobile home park shall be located or altered, or land or water used, nor shall any zoning permit or certificate of occupancy be issued therefor by the Building Official unless and until the required Manufactured Home/Mobile Home Park Development Plan is officially approved by the resolution of the City Council.

2. The proposed Manufactured Home/Mobile Home Park Development Plan shall show the following:

A. Topography with topographic lines at a minimum of five-foot intervals.

B. Park boundaries and dimensions.

C. Location and area of all uses, including streets adjacent to and within the park, walks, patios, manufactured home/mobile home stands, play areas, parks, and common open spaces, parking areas, utilities including street lighting and fire hydrants, physical features such as retaining walls, fences, trees, and natural features, other information that may be required by the Engineering, Traffic, Fire, Health, Water or Building Departments; easements and dedications.

D. The Manufactured Home/Mobile Home Park Plan shall be prepared by a landscape architect, architect, engineer, land surveyor, or other experienced designer and have the seal of a duly authorized engineer or land surveyor in the State of Iowa, certifying boundaries, boundary measurements, and such other matters as are required to be so approved by the Subdivision Regulations.

3. The proposed Manufactured Home/Mobile Home Park Development Plan shall be in accordance with the Site Design Plan approved by the City Council with the R-MH zoning granted for the proposed Manufactured Home/Mobile Home Park.

4. Every manufactured home/mobile home park shall be constructed and maintained in accordance with the approved Manufactured Home/Mobile Home Park Development Plan.

5. All manufactured homes/mobile homes shall be located and maintained in full conformity with the approved Manufactured Home/Mobile Home Park Development Plan.

6. In recommending upon and approving manufactured home/mobile home parks, the City Council shall consider the location, size, height, spacing and extent of use of any manufactured home/mobile home and its appurtenances, access and circulation for vehicles and pedestrians, streets, parking areas, yards and open spaces and the relationship to adjacent property. The Planning and Zoning Commission shall not recommend nor the City Council adopt such Manufactured Home/Mobile Home Park Plan unless it finds that such plan conforms to all applicable provisions of this chapter.

7. If said Manufactured Home/Mobile Home Park Development Plan contains no dedication to the City for streets or utilities or should it be contemplated that the facilities of the City shall not be used for maintenance of streets, sidewalks, water and sewer lines, garbage collection or other related functions, then such owner shall be required to record with such Manufactured Home/Mobile Home Park Plan a covenant that the owner will maintain said streets, sidewalks, water and sewer lines in compliance with the minimum standards as established by the City, and that should the owner fail to maintain said standards in any of these respects, the City may, after ten days' notice to such owner, cause all the necessary repairs or improvements as required to maintain said minimum standards, and the cost of all these and necessary repairs or improvements shall become a lien against said real estate, and enforced and recorded as mechanic's liens are enforced and recorded against such real estate, and said covenant shall contain the following provision: "That (name of owner) being the owner or owners of the real estate contained in the above attached Manufactured Home/Mobile Park Development Plan hereby consent that if they or their assignees, heirs or those holding or owning said land through said owners fail to maintain the streets, sidewalks, water and sewer mains according to and in compliance with the minimum standards for the maintenance of streets, sidewalks, water and sewer mains as established by the City of Independence, Iowa, that after ten days' notice in writing to the owner of said land as shown upon the records in the County Auditor's Office of Buchanan County, Iowa, and at the address herein shown, then said owner, assignees, heirs, and those holding or owning through said owners, hereby authorize the City of Independence, Iowa, to make all necessary repairs and perform all necessary maintenance and further authorize the City of Independence, Iowa, to file a mechanic's lien or such other lien or encumbrance against said real estate and enforce said lien pursuant to laws then applicable."

8. Amending Procedure.

A. If it is found necessary to make material and substantial alterations or modifications to an approved Manufactured Home/Mobile Home Park Development Plan, such alterations or modifications shall be approved by the City Council.

B. A request for approval of alterations or modifications of a previously approved Manufactured Home/Mobile Home Park Development Plan shall be accompanied by the same kind and number of exhibits as required for a new request for approval insofar as such exhibits are applicable to the requested alterations or modifications. When the City Council by official resolution approves the revised Manufactured Home/Mobile Home Park Development Plan, said revised plan will supplant the original approved Manufactured Home/Mobile Home Park Development Plan.

C. If a reasonable length of time has elapsed without significant progress having been made in completion of the manufactured home/mobile home park or if there has in the interim been a significant environmental change within or surrounding the area covered by the plan, the City Council may require that a revised plan be submitted by the developer.

147.04 AREA. Every lot upon which a manufactured home/mobile home unit is located shall front onto an approved public or private street or right-of-way as defined in this chapter and shall conform to the following minimum lot area and width requirements.

1. Residential Use.

A. The lot area shall be a minimum of 4,000 square feet with a minimum depth of 100 feet and with a minimum frontage on an approved public or private street or right-of-way of not less than 40 feet.

B. However, such minimum lot area may be reduced by an amount equal to an area included in common open space which is defined as an area permanently reserved as open space not including land in individual lots, parking areas or streets contiguous and immediately available to the individual lot or lots having reduced, minimum areas, and by means of location, size, shape and landscaping being obviously primarily for the utilization and enjoyment of the inhabitants of the said contiguous lots.

C. An individual manufactured home/mobile home lot shall not be reduced in area to less than 2,500 square feet.

2. Accessory Uses.

A. The lot area shall be a minimum of 4,000 square feet for basic requirements for such uses as direct servicing, management and maintenance of the park. Any such structure shall be of permanent type construction meeting all local applicable building codes.

B. For uses requiring larger lot areas than heretofore set forth under this section, such uses may be permitted if lot sizes are increased proportionately to maintain minimum yard and separation requirements as set forth in this chapter.

147.05 YARDS. All yards shall be subject to the following provisions:

1. Front Yard. Every lot shall have a front yard not less than 20 feet in depth measured from the edge of the surface of the public or private street, or right-of-way to the closest point on the lower surface of the manufactured home/mobile home.

2. Side and Rear Yards. Side and rear yards shall be provided and maintained as set forth in this chapter.

147.06 REQUIRED SEPARATION; ACCESSORY USES AND APPURTENANCES.

1. Every manufactured home/mobile home shall be separated from other manufactured homes/mobile homes and from accessory buildings on adjacent lots by a minimum distance of 20 feet.

2. Appurtenances attached to a manufactured home/mobile home shall be provided with a minimum separation of 20 feet from:

A. Any other attached appurtenance on an adjacent lot.

B. Any manufactured home/mobile home on an adjacent lot.

C. Any accessory building on an adjacent lot.

3. There shall be provided and maintained a minimum distance of 10 feet between any detached appurtenance and:

A. Any other detached appurtenance on the same lot.

B. Any manufactured home/mobile home on the same lot.

C. Any detached appurtenance on an adjacent lot.

D. Any manufactured home/mobile home on an adjacent lot.

4. There shall be provided and maintained a minimum distance of 20 feet between any detached appurtenance and any necessary buildings on adjacent lots.

5. Manufactured homes/mobile homes shall be separated from each other on opposing sides of public or private streets a minimum of 45 feet, provided that in no event shall the required front yard be less than set forth in this chapter. No manufactured home/mobile home accessory use or appurtenance shall be permitted in the required manufactured home/mobile home lot front yard or in the required separation between manufactured homes/mobile homes on opposing sides of public or private streets as provided in this chapter.

6. Side yard setback of 10 feet shall be maintained, for separation of all structures from side yard lot line.

7. Rear yard set back of 10 feet shall be maintained, for separation of all structures from rear yard lot line.

147.07 PARK PERIMETER GENERAL AREA REQUIREMENTS.

1. Each yard abutting on a perimeter public street shall be considered a front yard and shall be a minimum of 25 feet set back from right-of-way in depth.

2. All other yards shall have a minimum depth of 25 feet when adjacent to any other “R” District other than an R-MH District, and 25 feet when adjacent to another R-MH District or when adjacent to any district other than an “R” District.

3. The yard requirement herein may be reduced by one-half the width of any alley adjacent thereto provided that a greater or lesser yard may be required where the City Council deems necessary.

4. Where the boundary of a manufactured home/mobile home park directly abuts another use district the City Council may, where it is deemed necessary, require that an area a minimum of 10 feet in width be reserved along the perimeter of the manufactured home/mobile home park and within said area require the erection of a

fence or wall 6 feet in height and of a material which will provide a significant visual and sound barrier and/or screen plantings to be provided and maintained with a minimum height of 8 feet at maturity; or as otherwise required by the City Council.

147.08 SOIL AND GROUND COVER REQUIREMENTS. Exposed ground surfaces in all parts of every manufactured home/mobile home park shall be paved, or covered with stone screening, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of preventing objectionable dust.

147.09 SITE DRAINAGE REQUIREMENTS. Adequate provisions shall be made to handle all surface and storm drainage water as determined by the City.

147.10 LOT MARKERS. The limits of each manufactured home/mobile home lot shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finish lot grade. Location of lot limits on the ground shall be approximately the same as shown on the accepted plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is in no way to be construed as permitting lots of a lesser size than the required minimum or in permitting lesser yard or separation dimensions than set forth elsewhere in this chapter.

147.11 PARK AREAS FOR ACCESSORY USES. No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed as prohibiting the sale by an owner of a manufactured home/mobile home located on a manufactured home/mobile home stand and connected to the pertinent utilities. Any sales of manufactured homes/mobile homes in place on the manufactured home/mobile home stand shall not in any way relieve any parties involved from complying with all the applicable regulations of this chapter.

147.12 REQUIRED RECREATION AREAS. In all parks, there shall be one or more recreation areas which shall be easily accessible to all park residents. The size of such recreation area shall be based upon a minimum of 250 square feet for each lot. No outdoor recreation area shall contain less than 2,500 square feet. Required recreational area shall be computed in addition to any other common open space required elsewhere in this chapter. Recreation areas shall be so located as to be free of traffic hazards and should be easily accessible.

147.13 PARK STREET SYSTEMS.

1. General Requirements. All manufactured home/mobile home parks shall be provided with safe and convenient vehicular access from abutting public or private streets or roads to each manufactured home/mobile home lot. Alignment and gradient shall be properly adapted to topography.

2. Access. Access to manufactured home/mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of 42 feet where parking is permitted on both sides, or a minimum road pavement width of 32 feet where parking is limited to one side. Where the primary entrance road is more than 100 feet long and does not provide access to abutting manufactured home/mobile

home lots within such distance, the minimum road pavement width may be 24 feet providing parking is prohibited on both sides.

3. Interior Streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

A. All streets, except minor streets, no parking 24 feet.

B. Minor streets, no parking 22 feet.

C. One-way minor streets, no parking 22 feet. (Acceptable only if less than 500 feet total length and serving less than 25 manufactured home/mobile home lots.)

D. Dead-end streets shall be limited in length to 300 feet and shall be provided at the closed end with a turn-around having an outside roadway radius of at least 40 feet with no parking permitted. Where parking is permitted the radius shall not be less that 48 feet.

E. All streets of a manufactured home/mobile home park providing ingress and egress from an abutting public street or road shall have the location and design of intersection with said public street or road approved by the City Council and by any other governmental agency exercising control over such streets or roads.

4. Required Illumination of Manufactured Home/Mobile Home Park Street Systems. All parks shall be furnished with lighting units so spaced and equipped with approved fixtures placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night.

A. All parts of the park street system: 0.6 foot candle, with a minimum of 0.25 foot candle.

B. Potentially hazardous locations, such as major street intersections and steps or stepped ramps: individually illuminated with a minimum of 0.4 foot candle.

5. Street Construction and Design Standards.

A. Pavement. All streets shall be constructed with either Hot Mix Asphaltic Concrete or Portland Cement Concrete with an approved curb to provide for drainage. Street surfaces shall be maintained free of cracks, holes and other hazards. All streets shall be constructed to specifications approved by the City.

B. Grades of all streets shall be sufficient to insure adequate surface drainage, but shall be not more than 8 percent. Short runs with a maximum grade of 10 percent may be permitted, provided traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves. All street grades shall have prior approval of the City before commencing construction.

C. Intersections. Within 100 feet of an intersection, streets shall be at approximately right angles. A distance of at least 150 feet shall be maintained between centerline of off-set intersecting streets. Intersections of more than two streets at one point shall be avoided.

147.14 REQUIRED PARKING AREAS.

1. Parking areas shall be provided in all manufactured home/mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least two (2) car spaces for each manufactured home/mobile home lot.

2. Required car parking spaces shall be so located as to provide convenient access to the manufactured home/mobile home, but shall not exceed a distance of 200 feet from the manufactured home/mobile home that it is intended to serve. All parking areas shall be constructed with a hard, smooth, dust-free surface.

3. Sufficient off-street parking and storage area shall be provided to meet anticipated requirements of park occupants for storing of boats, boat trailers, travel trailers, pickup coaches, truck tractors, trucks over ¾-ton pickup size, and items of a similar nature. Said parking and storage area shall be in addition to parking required elsewhere in this section and parking and storage of vehicles and items listed in this paragraph shall not be permitted in parking areas required elsewhere in this section. Temporary manufactured home/mobile home storage may be permitted prior to permanent placement on the manufactured home/mobile home stand; such temporary storage of a manufactured home/mobile home shall not exceed 48 hours.

147.15 WALKS.

1. General Requirements. All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain between individual manufactured homes/mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient should be avoided. All sidewalks shall be constructed to specifications approved by the City.

2. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and may be constructed adjacent to the street curbing.

3. Individual Walks. All manufactured home/mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connected to a paved street. Such individual walks shall have a minimum width of two feet.

147.16 MANUFACTURED HOME/MOBILE HOME STANDS. The area of the manufactured home/mobile home stand shall be approved to provide an adequate foundation for the placement and tie-down of the manufactured home/mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

1. The manufactured home/mobile home stand shall be constructed in such a manner that it will not heave, shift or settle unevenly under the weight of the manufactured home/mobile home due to inadequate drainage, vibration or other forces acting on the superstructure. The manufactured home/mobile home stand shall be constructed at a minimum with 6-inch deep x 30-inch wide poured concrete ribbons with 6x6 #10 wire mesh reinforcing and of sufficient length to support all wheels and undercarriage supports of any manufactured home/mobile home that may be placed on the manufactured home/mobile home stand.

2. The manufactured home/mobile home stand shall be provided with anchors, arrowhead anchors, or other devices insuring the stability of the manufactured home/mobile home.

3. Tie-down or anchors shall be placed at least at each corner of the manufactured home/mobile home stand to provide a readily accessible anchor for the manufactured home/mobile home and each shall be able to sustain a minimum tensile strength of 2,800 pounds.

4. Skirting of a permanent type material shall be installed to enclose the open space between the bottom of a manufactured home/mobile home floor and the grade level of the manufactured home/mobile home stand and shall be so constructed to provide substantial resistance to heavy winds, thereby alleviating, to the maximum extent possible, lifting action created on the underside of the manufactured home/mobile home by heavy winds.

5. A sufficiently screened ventilating area shall be installed in the skirting to supply the combustion requirements of heating units and other ventilating requirements of the manufactured home/mobile home. Provision shall be made for easy removal of a section large enough to permit access for inspection of the enclosed area under the manufactured home/mobile home and for repairs on sewer and water riser connections.

6. Skirting shall be maintained in an attractive manner consistent with the exterior of the manufactured home/mobile home and to preserve the appearance of the manufactured home/mobile home park.

147.17 WATER SUPPLY.

1. General Requirements. All manufactured home/mobile home stands and manufactured home/mobile home park facilities shall be connected to a central water supply and its supply used exclusively.

2. Source of Supply. The water supply shall be capable of supplying a minimum of 150 gallons per day per manufactured home/mobile home.

147.18 WATER DISTRIBUTION SYSTEM.

1. The water supply system of the manufactured home/mobile home park shall be connected by pipes to all manufactured homes/mobile homes, buildings, and other facilities requiring water.

2. All water piping, fixtures and other equipment shall be constructed and maintained in accordance with State and local regulations and requirements and shall be of a type and in locations approved by the Building Inspector of the City.

3. The water system shall be designed, constructed, and maintained according to specifications of the Health Department and the Building Department of the City.

147.19 INDIVIDUAL WATER RISER PIPES AND CONNECTIONS.

1. Individual water riser pipes shall be located within the confined area of the manufactured home/mobile home stand at a point where the water connection will approximate a vertical position.

2. Water riser pipes shall extend at least to ground level. The pipe shall be at least ¾-inch. The water outlet shall be capped when a manufactured home/mobile home does not occupy the lot.

3. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.

4. A shut-off valve below the frost line shall be provided near the water riser pipe on each manufactured home/mobile home lot.

5. Underground stop and water valves shall be installed as required by City regulations.

147.20 SEWAGE DISPOSAL. An adequate and safe sewage system shall be provided in all manufactured home/mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with State and local laws.

147.21 SEWER LINES. All sewer mains and laterals shall be constructed according to specifications of the City and connected to a system approved by the City.

147.22 INDIVIDUAL SEWER CONNECTIONS.

1. Each manufactured home/mobile home stand shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand that the sewer connection to the manufactured home/mobile home drain outlet will approximate a vertical position.

2. The sewer connection shall have a minimum inside diameter of three inches, and the slope thereof shall not be less than one-fourth inch per foot. The sewer connection shall consist of one pipe line only without any branch fittings. All joints shall be air and water light.

3. All materials used for sewer and sewer connections shall be semi-rigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth.

4. Provisions shall be made for plugging the sewer riser pipe when a manufactured home/mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least to ground level.

147.23 ELECTRICAL DISTRIBUTION SYSTEM. Every park shall contain an electrical wiring system consisting of necessary wiring, fixtures, and equipment which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

147.24 MAIN ELECTRICAL POWER DISTRIBUTION LINES. Main electrical power lines should be constructed underground according to local electric utility specifications.

147.25 INDIVIDUAL ELECTRICAL CONNECTIONS.

1. Each manufactured home/mobile home stand shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per manufactured home/mobile home stand outlet shall be according to City specifications.

2. Outlet receptacles at each manufactured home/mobile home stand shall be located not more than 25 feet from the over-current protective devices in the manufactured home/mobile home and a three pole, four-wire grounding type shall be used. Receptacles shall be of weather proof construction and configuration shall be in accordance with *Standard for Manufactured Home* USAS A119.l, published by United States of America Standards Institute, or similar equipment meeting the approval of this Code of Ordinances.

3. The manufactured home/mobile home shall be connected to the outlet receptacle by an approved type of flexible cable with connectors and a male attachment plug. However, where the calculated load of the manufactured home/mobile home is between 50 and 100 amperes, a second 50-ampere power supply assembly may be installed or an electrical service shall be provided by means of permanently installed conductors.

4. Where the calculated load exceeds 100 amperes or where a permanent feeder is used, the supply shall be by means of a four-wire installation according to City specifications.

147.26 REQUIRED GROUNDING. All exposed non-current-carrying metal parts of manufactured homes/mobile homes and all equipment having electrical connections shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as a ground for manufactured homes/mobile homes or other electrical equipment.

147.27 SERVICE BUILDING AND OTHER COMMUNITY SERVICE FACILITIES.

1. General. The requirements of this section apply to service buildings, recreation buildings and other community service facilities, such as:

A. Management offices, repair shops and storage areas.

B. Sanitary facilities.

C. Laundry facilities.

D. Indoor recreation areas.

2. Required Community Sanitary Facilities. Every park shall be provided with the following emergency sanitary facilities. For each 100 manufactured home/mobile home lots, or fractional part thereof, there shall be one flush toilet and one lavatory for each sex. The building containing such emergency sanitary facilities shall be accessible to all manufactured homes/mobile homes. Where waiver of such facilities is permitted by the State Code governing new manufactured home/mobile home parks, the provisions of this section may be waived.

3. Structural Requirements for Building. All buildings other than manufactured homes/mobile homes and their appurtenances shall be constructed in compliance with applicable State and local codes and regulations.

4. Barbecue Pits, Fireplaces, Stoves and Incinerators. Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No

fuel shall be used and no material burned which emits dense smoke or objectionable odors.

147.28 REFUSE HANDLING.

1. The storage, collection and disposal of refuse in the manufactured home/mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

2. All refuse shall be stored in fly-tight, water-tight, rodent-proof containers, which shall be located not more than 300 feet from any manufactured home/mobile home lot they serve. Containers shall be provided in sufficient number and capacity to properly store all refuse.

3. Refuse collection stands consisting of a holder or rack elevated at least 12 inches above ground level, or an impervious slab at ground level shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.

4. All refuse shall be collected and transported to be consistent with City residential refuse collection.

5. Where private disposal service is not available, the manufactured home/mobile home park owner shall dispose of the refuse by incineration or transporting to a disposal site approved by the City.

6. Refuse incinerators shall be constructed in accordance with engineering plans and specifications which shall be reviewed and approved by the City or other authority having jurisdiction.

7. Incinerators shall be operated only when attended by some person specifically authorized by the owner or operator of the manufactured home/mobile home park.

147.29 INSECT AND RODENT CONTROL.

1. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the City.

2. Parks shall remain free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

3. Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipe and other building materials shall be stored at least one foot above the ground.

4. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other offensive insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

147.30 NATURAL GAS SYSTEM. Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

147.31 LIQUEFIED PETROLEUM GAS SYSTEMS. Liquefied petroleum gas systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

147.32 FUEL OIL SUPPLY SYSTEMS. All fuel oil systems shall be installed and maintained in accordance with applicable costs and regulations governing such systems.

147.33 FIRE PROTECTION.

1. The manufactured home/mobile home park area shall be subject to the rules and regulations of the applicable fire district.

2. Manufactured home/mobile home parks shall be kept free of litter, rubbish and other flammable materials.

3. Portable fire extinguishers of a type approved by the City Building Inspector and the City Fire Department shall be kept in service buildings and at all locations designated by such fire prevention authority and shall be maintained in good operating condition.

4. Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.

5. Fire hydrants shall be installed in the park system and located at such locations as determined by the Building Inspector and the Fire Department.

147.34 RESPONSIBILITIES OF PARK MANAGEMENT.

1. The person to whom a permit for a manufactured home/mobile home park is issued shall operate the park in compliance with this chapter and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

2. The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations issued hereunder.

3. The park management shall be responsible for the proper placement of each manufactured home/mobile home on its manufactured home/mobile home stand which includes securing its stability and installing all utility connections and required skirting. Required skirting shall be installed in accordance with the provisions of this chapter and within 30 days after initial occupancy unless prohibited by frozen ground, in which event such skirting shall be installed immediately after the ground becomes unfrozen.

4. The park management shall maintain a register containing the names of all renters or owners in the park. Such register shall be available to any authorized person inspecting the park.

5. The park management shall notify the Health Department immediately of any suspected communicable or contagious disease within the park.

147.35 RESPONSIBILITIES OF PARK OCCUPANTS. The park occupant shall comply with all applicable requirements of this chapter and regulations issued hereunder and shall maintain the manufactured home/mobile home lot, its facilities and equipment in good repair

and in a clean and sanitary condition. All City ordinances with respect to keeping of animals and pets shall apply.

147.36 RESTRICTION ON OCCUPANCY. A manufactured home/mobile home shall not be occupied for dwelling purposes unless it is properly placed on a manufactured home/mobile home stand and connected to water, sewage and electrical utilities.

147.37 VARIATIONS AND EXCEPTIONS. Whenever the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustice, the City Council, upon recommendation of the Planning and Zoning Commission, may vary or modify such requirements so that the developer is allowed to develop such property in a reasonable manner, but so, at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

147.38 OCCUPANCY. It is unlawful to use any mobile home, travel trailer, pickup coach, motorized home or vehicle for human occupancy within the City, except where located in a mobile home park regularly approved according to the provisions of this chapter, except that such manufactured homes/mobile homes or vehicles may be used for human occupancy in an area authorized by the City Council for recreational or other purposes.

147.39 STORAGE. This chapter does not prohibit the storage of one manufactured home/mobile home, travel trailer, pickup coach, or motorized home for any one family, providing that the stored location of said unit is in compliance with the regulations of the Zoning Ordinance of the City. At no time shall parked or stored manufactured homes/mobile homes, travel trailers, pickup coaches, or motorized homes be occupied or used for living, sleeping, or housekeeping purposes.

147.40 OCCUPANCY PERMIT. Prior to placement of any manufactured home/mobile home on any lot in the City, the owner of the property shall apply for an occupancy permit from the City Building Inspector for placement of the manufactured home/mobile home on the lot. The application fee for the occupancy permit shall be $50.00. An inspection shall be made prior to permit issuance, approving the following:

1. Pad conditions, including foundations, footings, piers, caps, shims and plates.

2. Water service, including all water riser pipes and connections.

3. Electrical service, including connections equipment.

4. Sanitary sewer service, including laterals and riser pipes.

5. Manufactured home/mobile home condition and certification of federal inspection.

6. Anchoring system and equipment, which shall be in conformance with State and local codes.

Following acceptance of all lot conditions, services and the unit condition, an occupancy permit will be granted.

147.41 STORM SHELTERS.

1. General Requirements. Every manufactured home/mobile home community of 10 or more mobile home spaces shall be provided with above- or below-grade storm shelters which shall:

A. Have a minimum floor area of 7 square feet for each manufactured home/mobile home space in said manufactured home/mobile home community;

B. Be designed by a licensed structural engineer or architect and built in accordance with plans as approved by the City Engineer, Building Official or licensed structural engineer or architect;

C. Be designed and constructed to meet all Federal Emergency Management Agency (FEMA) requirements and guidelines if the shelter is located in a flood plain;

D. Be designed and constructed to meet the minimum lighting, ventilation and exiting requirements of the City's Building Codes, where applicable;

E. Be designed and constructed to meet all applicable requirements of the Americans with Disabilities Act (ADA);

F. Be located no farther than 1320 linear feet from the farthest manufactured home/mobile home space in the manufactured home/mobile home community.

2. Additions to Existing Communities. For any addition of 10 or more manufactured home/mobile home spaces to any existing manufactured home/mobile home community, a storm shelter which complies with the general requirements of this section shall be provided to serve such additional spaces. For any addition of fewer than 10 manufactured home/mobile home spaces to an existing manufactured home/mobile home community which otherwise complies with the requirements of this section, there is no requirement that an additional shelter be provided to serve such additional spaces. Provided, however, when two or more such additions of fewer than 10 manufactured home/mobile home spaces result in a cumulative addition of 10 or more manufactured home/mobile home spaces to a manufactured home/mobile home community which otherwise complies with the requirements of this section, a storm shelter which complies with the general requirements hereof shall be provided to serve such additional spaces.

3. Restroom Facilities. Restroom facilities in required storm shelters are not mandatory but may be installed at the owner's option. If restrooms are installed, toilets may be either flush-type operating from normal water supply, chemical, or other approved types.

4. Access to Shelters. The manufactured home/mobile home community owner, or such owner's designated agent or representative, shall be responsible for making the storm shelter accessible and usable in times of need. It is unlawful for any required storm shelter to be used for storage purposes if such storage reduces the minimum floor area available for shelter of persons below the requirements of this section.

5. Existing Nonconforming Manufactured Home/Mobile Home Communities. Any manufactured home/mobile home community of 10 or more manufactured home/mobile home spaces which has an existing above- or below-grade storm shelter as of the effective date of the ordinance codified in this chapter which does not conform with the requirements of this section, shall be deemed a nonconforming manufactured home/mobile home community with regard to the requirements for storm shelters and may continue to exist as a nonconforming manufactured home/mobile home community for so long as said existing shelter remains in place and usable; provided, however, that any manufactured home/mobile home spaces added to such community after the effective date of such ordinance shall require storm shelters as provided in this section. Current manufactured home/mobile home parks are exempt from having storm shelters. This exception, variance and/or exclusion shall be for:

A. Rush Park Mobile Home Park
1818 1st Street West
SW SE SW known as Deady's Lot 2, ex. E 217' and ex. com. at SW cor. N 107', E 182', S 107', W 182', 33-89-9.

B. Oaks Mobile Home Park
1237 1st Avenue NE
Com: 11R N of SE cor. NE; NW, N 19 R. W 80 R, S 21 R, E 40 R, N 2 R, E to beg. 34-89-9.

In consideration of the exception, variance, and/or exclusion, the above-named manufactured home/mobile home parks shall not site a larger manufactured home/mobile home as determined by its square footage, than has been previously sited on that individual lot, as per the Buchanan County Treasurer's records. In consideration of Section 147.10 exception, the existing parks agree that manufactured homes/ mobile homes shall be clearly numbered with 4-inch numbers that contrast with the background to which they are affixed and clearly visible from roadway.

147.42 COMPLIANCE OF EXISTING MANUFACTURED HOME/MOBILE HOME PARKS. All designated existing manufactured home/mobile home parks, within the corporate limits, shall be in compliance with this chapter, upon acceptance by the Council. However, the Council does grant exception, variance and exclusion to the following sections of this chapter for manufactured home/mobile home parks in existence as of March 22, 1999:

1. Section 147.03 – Park Development Plan.
2. Section 147.04 – Area.
3. Section 147.05 – Yards.
4. Section 147.06 – Required Separation; Accessory Uses and Appurtenances.
5. Section 147.07 – Park Perimeter General Requirements.
6. Section 147.10 – Lot Markers.
7. Section 147.11 – Park Areas for Accessory Uses.
8. Section 147.12 – Required Recreation Areas.
9. Section 147.13 – Park Street Systems.
10. Section 147.14 – Required Parking Areas.

11. Section 147.15 – Walks.
12. Section 147.27 – Service Building and Other Community Service Facilities.
13. Section 147.41 – Storm Shelters.

Rush Park Lots 20-34 are exempt from limitations on size of manufactured homes/mobile homes. These lots are designed for a maximum of 18-foot x 80-foot manufactured home/mobile home. Any future expansions of existing manufactured home/mobile home courts would have to follow all City ordinances.

[The next page is 835]

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Plan

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Duty to Trim Trees
151.04 Trimming Trees to Be Supervised
151.05 Disease Control
151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, "parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line five (5) feet from the property line.

2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.

3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 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 dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

[The next page is 845]

CHAPTER 152

FENCES, WALLS AND HEDGES

152.01 Corner Lot Restrictions
152.02 Interior Lot Restrictions
152.03 Permit Required and Contents

152.01 CORNER LOT RESTRICTIONS. On any corner lot in any Zoning District, no fence, wall or other structure shall be erected to a height of more than three (3) feet above the established curb grade at the intersection of the streets on that part of any yard which is bounded by the street lines and a line connecting two points on said street lines twenty (20) feet from their point of intersection, and no planting or foliage to a height of more than three (3) feet shall be placed or maintained within such area.

152.02 INTERIOR LOT RESTRICTIONS. On any interior lot in any Zoning District, no fence, wall or hedge shall exceed four (4) feet in height in any required front yard and shall not exceed six feet six inches (6'6") in height in any required side or rear yard. These regulations also apply to that part of the side and front yards of corner lots not covered by Section 152.01. No fence, wall or hedge shall be within three (3) feet of the property line in any side or rear yard unless a written agreement between the adjoining property owners permitting the location of the fence, wall or hedge on the property line is filed with the City.

152.03 PERMIT REQUIRED AND CONTENTS. No fence, wall or hedge shall hereafter be erected, enlarged, altered or reconstructed without first having applied in writing to the office of the Building Inspector for a permit. Said application shall state the applicant's name and address and include the location and height of the proposed fence, wall or hedge. Permits will be issued by the Building Inspector to all applicants which are in compliance with this chapter.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 153

ABOVE-GROUND MOTOR FUEL TANKS

153.01 Above-Ground Tank Motor Fuel Dispensing
153.02 Retail Sales Prohibited
153.03 Emergency Internal Check Valves
153.04 Tank Installation Requirements
153.05 Existing Uses
153.06 Incorporation of Existing Regulations

153.01 ABOVE-GROUND TANK MOTOR FUEL DISPENSING. The dispensing of flammable or combustible liquids from above-ground tanks into the fuel tanks of motor driven vehicles shall not be permitted except in conformity with Section 8.16, *National Fire Protection Association No. 30A*, 1987 Edition. For installations other than those provided for in the *National Fire Protection Association No. 30A*, Section 8-3.6, *The National Fire Protection Association No. 30*, 1987 Edition, Section 1-1.5 shall be applicable.

153.02 RETAIL SALES PROHIBITED. The retail sale of flammable or combustible liquid from above-ground tanks directly into fuel tanks of motor driven vehicles is prohibited.

153.03 EMERGENCY INTERNAL CHECK VALVES. In addition to any normal valves on above-ground tanks, there shall be an extra valve at each pipeline connection to any tank below normal liquid level, which valve is inside the tank shell and is operated both manually and by an effective heat-activated device which, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank, even though the pipelines are broken from the tank. These extra valves are not required in crude oil tanks in oil fields, on tanks at refineries, or on tanks at terminals which are equipped with a swing line or where facilities are provided to transfer the contents of the tank to another tank in case of fire.

153.04 TANK INSTALLATION REQUIREMENTS. Tank installations must comply with Chapters 2 and 3 of the *National Fire Protection Association No. 30*. Tanks of 660 gallons or less shall be located not less than twenty-five (25) feet from buildings. Tanks greater than 660 gallons shall be located forty (40) feet from any building. All dispensing shall be twenty (20) feet from any source of ignition, and be so located, so all parts of the vehicles being served shall be on their property only. There shall be no fueling in streets, alleys or on adjoining properties. These are general safety distances to limit exposure. Separation of LP tanks and above-ground tanks containing gasoline shall be at least twenty (20) feet. Tanks shall be located in areas zoned for industrial, commercial or agricultural use; however, tanks may be located in other zoned areas after application to the Council, public hearing and Council approval. Distance factors may be increased due to exposures or hazards in certain cases by the office of the State Fire Marshal. All new or replacement tank installations must have local approval by the Council before being submitted to the State Fire Marshal. Plans must have State Fire Marshal approval with an on-site inspection prior to construction and again before the system is put into service.

153.05 EXISTING USES. The use of structures, facilities and tanks existing at the time of enactment of the ordinance codified in this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structure or facility may not be enlarged, extended or substituted subsequent to adoption of said ordinance.

153.06 INCORPORATION OF EXISTING REGULATIONS. The regulations set forth in the Iowa Administrative Code, Chapter 661 (Public Safety) shall be adopted as if set forth in full herein except where said regulations are less restrictive than set forth herein.

[The next page is 855]

CHAPTER 154

HOME OCCUPATION PERMITS

154.01 Home Occupation Permit Required
154.02 Application and Contents
154.03 Procedure
154.04 Limitations
154.05 Expiration, Renewal, and Revocation
154.06 Non-Transferability
154.07 Signage
154.08 Gainful Occupation
154.09 Penalties

154.01 HOME OCCUPATION PERMIT REQUIRED. No gainful occupation shall be conducted within a personal residence without a home occupation permit.

154.02 APPLICATION AND CONTENTS. The application for a home occupation permit shall contain the name and address of the applicant; occupation to be conducted in the residence; that the occupation to be conducted in the residence meets the applicable fire and safety codes for the new use; and shall be accompanied by an application fee and an inspection fee as prescribed by resolution of the Council. Any business service requiring a person to be on premises to receive services such as (but not limited to) daycares, barbers, beauticians, and any other related business shall also provide a copy of their State licenses when submitting their application for a home occupation permit. The inspection fee only shall be waived for any such businesses submitting proof of inspection by the State.

154.03 PROCEDURE. The application shall be presented to the Council and shall contain the names, addresses, and telephone numbers of the property owners immediately adjacent to the property on the east, west, north, and south sides. The City will notify the adjacent property owners of the intent to consider approving/denying the application for a home occupancy permit. This will allow the adjacent property owners the opportunity to either submit their written comments before the day of the hearing if they are unable to attend the hearing or attend the hearing and their comments will be heard. The day of the hearing, the Council shall review the application for approval or denial for a home occupation permit.

154.04 LIMITATIONS. A home occupation shall encompass no more than thirty (30) percent of the habitable area inside the residence or an adjoining, attached, or unattached enclosed structure. The home occupation shall also be limited to the first floor or basement of any residence or the first floor of an adjoining enclosed structure. An adjoining enclosed structure shall not be used for commercial (for profit) automobile repair, storage, or other related purposes.

154.05 EXPIRATION, RENEWAL, AND REVOCATION. A home occupation permit shall be valid for one year and renewed on a yearly basis within thirty (30) days of the expiration date, by applying to the Council for renewal and shall be accompanied by a renewal fee as prescribed by resolution of the Council. Should the home occupation permit not be renewed as required, a new permit must be applied for and approved before the existing home occupation may be allowed to continue. Because operating a home occupation in a residential district is a privilege, a previously approved application may be revoked upon substantial complaint of the surrounding neighborhood, upon noncompliance with the required inspections, or upon violation of this chapter or any ordinance of the City.

154.06 NON-TRANSFERABILITY. The home occupation permit shall be valid only for the person at the residence indicated on the permit and should the occupation be discontinued or the home sold, the existing permit shall immediately expire. Should the holder of a valid home occupation permit desire to terminate the home occupation prior to the renewal date of July 1, said holder shall not receive a refund for any unexpired time remaining on the permit.

154.07 SIGNAGE. A home occupation shall be allowed one sign that is a maximum of three (3) square feet in area.

154.08 GAINFUL OCCUPATION. Any occupation conducted in the residence is considered a gainful occupation for the purposes of this chapter if either of the following conditions are met:

1. As a result of the occupation, the residence is open either to the public or to nonfamily members of the resident(s). Family members are considered parents, siblings, grandparents, nieces and nephews, grandchildren, and children whose parent(s) or guardian(s) reside in the home.

2. As a result of the occupation, any commercial vehicles visit the residence more than twice per week.

154.09 PENALTIES. If a home occupation is conducted in violation of this chapter, such conduct shall be a municipal infraction in violation of Chapter 4 of this Code of Ordinances, punishable by civil fines set forth in the chapter.

[The next page is 861]

CHAPTER 155

INTERNATIONAL BUILDING CODE

155.01 Adoption of Code **155.02 Amendments**

155.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Building Code*, 2012 Edition, including Appendix Chapters A, B, C, D, E, F, G, H, I and J, as published by the International Code Council, Inc., is hereby adopted as the Building Code of the City of Independence, in the State of Iowa, for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes prescribed in Section 155.02 of this chapter.

155.02 AMENDMENTS. The following sections are hereby revised:

1. Section 101.1 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

2. Section 1612.3 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

3. Section 1612.3 – Insert "July 16, 2003" for [Date of Issuance].

4. Section 3410.2 – Insert "October 9, 2006" for [Date in One Location].

(Ord. 2012-428 – Sep. 12 Supp.)

[The next page is 871]

CHAPTER 156

PLUMBING CODE

156.01 Adoption of Code **156.02 Amendments**

156.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Plumbing Code*, 2012 Edition, including Appendix Chapters, as published by the International Association of Plumbing and Mechanical Officials, is hereby adopted as the code of the City of Independence, in the State of Iowa, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City, providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of said *International Plumbing Code* and Appendix I published by the International Association of Plumbing and Mechanical Officials, are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter.

156.02 AMENDMENTS. The following sections are hereby revised:

1. Section 101.1 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

2. Section 106.6.2 – Insert "See current Building Permit Fees Schedule kept on file in the office of the Building Official" for [Appropriate Schedule].

3. Section 106.6.3 – Insert "100" for [Percentage] and [Percentage].

4. Section 108.4 – Insert "a municipal infraction punishable as set forth in Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Offense].

5. Section 108.5 – Insert "the amount authorized as penalty for a municipal infraction by Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Amount] and [Amount].

(Ord. 2012-429 – Sep. 12 Supp.)

[The next page is 881]

CHAPTER 157

MECHANICAL CODE

157.01 Adoption of Code **157.02 Amendments**

157.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Mechanical Code*, 2012 Edition, including all Appendix chapters, as published by the International Association of Plumbing and Mechanical Officials, is hereby adopted as the code of the City of Independence, in the State of Iowa, for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilating, cooling or refrigeration systems, incinerators or other miscellaneous systems and heat-producing appliances in the City, providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of said *International Mechanical Code*, published by the International Association of Plumbing and Mechanical Officials, are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter.

157.02 AMENDMENTS. The following sections are hereby revised:

1. Section 101.1 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

2. Section 106.5.2 – Insert "See current Building Permit Fees Schedule kept on file in the office of the Building Official" for [Appropriate Schedule].

3. Section 106.5.3 – Insert "100" for [Percentage] and [Percentage].

4. Section 108.4 – Insert "a municipal infraction punishable as set forth in Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Offense].

5. Section 108.5 – Insert "the amount authorized as penalty for a municipal infraction by Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Amount] and [Amount].

(Ord. 2012-430 – Sep. 12 Supp.)

[The next page is 891]

CHAPTER 158

INTERNATIONAL FUEL GAS CODE

158.01 Adoption of Code **158.02 Amendments**

158.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Fuel Gas Code*, 2012 Edition, including all Appendices contained therein, as published by the International Code Council, Inc., is hereby adopted as the Fuel Gas Code of the City of Independence, in the State of Iowa, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code are hereby referred to, adopted and make a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes prescribed in Section 158.02 of this chapter.

158.02 AMENDMENTS. The following sections are hereby revised:

1. Section 101.1 – Insert "City of Independence" for [Name of Jurisdiction].

2. Section 106.5.2 – Insert "See current Building Permit Fees Schedule kept on file in the office of the Building Official" for [Appropriate Schedule].

3. Section 106.6.3 – Insert "100" for [Percentage] and [Percentage].

4. Section 108.4 – Insert "a municipal infraction punishable as set forth in Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Offense].

5. Section 108.5 – Insert "the amount authorized as penalty for a municipal infraction by Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Amount] and [Amount].

(Ord. 2012-431 – Sep. 12 Supp.)

[The next page is 901]

CHAPTER 159

INTERNATIONAL FIRE CODE

159.01 Adoption of Code **159.02 Amendments**

159.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Fire Code*, 2012 Edition, including all Appendix Chapters, as published by the International Code Council, Inc., is hereby adopted as the code of the City of Independence, in the State of Iowa, for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of building and premises in the City and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such *International Fire Code*, published by the International Code Council, are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter.

159.02 AMENDMENTS. The following sections are hereby revised:

1. Section 101.1 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

2. Section 109.4 – Insert "a municipal infraction punishable as set forth in Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Offense, Dollar Amount, Number of Days].

3. Section 111.4 – Insert "the amount authorized as penalty for a municipal infraction by Section 4.03 of the Code of Ordinances, Independence, Iowa" for [Dollar Amount] and [Dollar Amount].

(Ord. 2012-432 – Sep. 12 Supp.)

[The next page is 911]

CHAPTER 160

FIRE PREVENTION CODE

160.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Fire Chief, being marked and designated as the newest edition of the NFPA 1, *Fire Prevention Code*, including all Appendix Chapters, as prepared by the Technical Committee on Fire Prevention Code and acted on by the National Fire Protection Association, Inc., is hereby adopted as the code of the City for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City, and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such newest edition of the NFPA 1, *Fire Prevention Code*, as prepared by the Technical Committee on Fire Prevention Code and acted on by the National Fire Protection Association, Inc., are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter.

[The next page is 921]

CHAPTER 161

ELECTRICAL CODE

161.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *National Electrical Code*, 2012 Edition, including all Appendix Chapters, as published by the National Fire Protection Association, Inc., is hereby adopted as the code of the City of Independence, in the State of Iowa, for regulating and governing the installation, alteration, or repair of or addition to electrical conductors or equipment installed within or on any structure in the City; and each and all of the regulations, provisions, conditions and terms of such *National Electrical Code*, published by the National Fire Protection Association, are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter.

(Ord. 2012-433 – Sep. 12 Supp.)

[The next page is 931]

CHAPTER 162

INTERNATIONAL RESIDENTIAL CODE

162.01 Adoption of Code
162.02 Amendments
162.03 Exceptions

162.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Residential Code*, 2012 Edition, including Appendix Chapters A, B, C, D, E, F, G, H, I, J, K, and L, as published by the International Code Council, Inc., is hereby is adopted as the Residential Code of the City of Independence, in the State of Iowa, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, conditions and terms of said Residential Code are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes prescribed in Section 162.02 of this chapter.

162.02 AMENDMENTS. The following sections are hereby revised:

1. Section R101.1 – Insert "City of Independence" for [Name of Jurisdiction.

2. Table R301.2(1) – Insert the following table for [Appropriate Design Criteria]:

Ground Snow Load	Wind Speed (mph)	Seismic Design Category	Subject to Damage From:				Winter Design Temp	Ice Shield Under-Layment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp
			Weathering	Frost Line Depth	Termite	Decay					
30	90	A	Severe	42"	Slight to Moderate	Slight to Moderate	0 F	Required	Firm 07-16-08	2000	47.7F

3. Section P2603.6.1 – Insert "See Uniform Plumbing Code, Chapter 156 of the Independence Code of Ordinances" for [Number of Inches] and [Number of Inches].

4. Section P3103.1 – Insert "See Uniform Plumbing Code, Chapter 156 of the Independence Code of Ordinances" for [Number of Inches] and [Number of Inches].

162.03 EXCEPTIONS. The following exception applies:

1. Section R313 – Automatic Fire Sprinkler Systems.

(Ord. 2012-434 – Sep. 12 Supp.)

[The next page is 941]

CHAPTER 163

INTERNATIONAL PROPERTY MAINTENANCE CODE

163.01 Adoption of Code **163.02 Amendments**

163.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Property Maintenance Code*, 2012 Edition, as published by the International Code Council, Inc., is hereby adopted as the Property Maintenance Code of the City of Independence, in the State of Iowa, for the control of all property, buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes prescribed in Section 163.02 of the chapter.

163.02 AMENDMENTS. The following sections are hereby revised:

1. Section 101.1 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

2. Section 103.5 – Insert "See City of Independence Zoning Ordinance" for [Appropriate Schedule].

3. Section 304.14 – Insert "June 1st" and "September 15th" for [Date] and [Date].

4. Section 602.3 – Insert "November 1st" and "April 1st" for [Date] and [Date].

5. Section 602.4 - Insert "November 1st" and "April 1st" for [Date] and [Date].

6. Section 112.4 – Insert "$100" in [First Location] and "$1,000" in [Second Location].

7. Section 302.4 – Insert "8 (eight) inches" in [Location].

(Ord. 2012-435 – Sep. 12 Supp.)

[The next page is 951]

CHAPTER 164

INTERNATIONAL EXISTING BUILDING CODE

164.01 Adoption of Code **164.02 Amendments**

164.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Existing Building Code*, 2012 Edition, as published by the International Code Council, Inc., is hereby adopted as the Existing Building Code of the City of Independence, in the State of Iowa, for the control of all buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Existing Building Code are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes prescribed in Section 164.02 of the chapter.

164.02 AMENDMENTS. The following sections are hereby revised:

1. Section 101.1 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

2. Section 1401.2 – Insert "October 9, 2006" for [Date].

(Ord. 2012-436 – Sep. 12 Supp.)

[The next page is 961]

CHAPTER 165

INTERNATIONAL ENERGY CONSERVATION CODE

165.01 Adoption of Code **165.02 Amendments**

165.01 ADOPTION OF CODE. That certain document, one (1) copy of which is on file in the office of the Building Official, being marked and designated as the *International Energy Conservation Code*, 2012 Edition, as published by the International Code Council, Inc., is hereby adopted as the Energy Conservation Code of the City of Independence, in the State of Iowa, for the control of all energy efficient building envelopes and energy efficient mechanical, lighting and power systems as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Energy Conservation Code are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes prescribed in Section 165.02 of the chapter.

165.02 AMENDMENTS. The following sections are hereby revised:

1. Sections C101.1 and R101.1 – Insert "City of Independence, Iowa" for [Name of Jurisdiction].

2. Sections C108.4 and R108.4 - Insert "$100" in [First Location] and "$1,000" in [Second Location].

(Ord. 2012-437 – Sep. 12 Supp.)

[The next page is 1005]

CHAPTER 170

ZONING REGULATIONS

EDITOR'S NOTE

The 2006 Revised Version of the City of Independence, Buchanan County, Iowa, Zoning Ordinance, adopted October 9, 2006, by Ordinance No. 364-1006, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances, and are in full force and effect. The following ordinances have been adopted amending the Zoning Regulations of the City.

ORDINANCE	ADOPTED	SUBJECT
255-0998	September 14, 1998	Zoning Map
260-1198	November 23, 1998	Zoning Map
267-0299	February 22, 1999	Zoning Map
268-0399	March 8, 1999	Zoning Map
269-0399	March 8, 1999	Zoning Map
271-0399	March 22, 1999	Zoning Map
276-0699	June 7, 1999	Zoning Map
277-0699	June 7, 1999	Residential Building Standards
279-0899	August 9, 1999	Zoning Map
280-0899	August 9, 1999	Zoning Map
281-1099	October 11, 1999	Zoning Map
290-0600	June 12, 2000	Zoning Map
294-0800	August 14, 2000	Zoning Map
297-1200	December 26, 2000	Zoning Map
298-0101	January 22, 2001	Zoning Map
299-0101	January 22, 2001	Zoning Map
300-0201	February 12, 2001	Zoning Map
316-0702	July 8, 2002	Zoning Map
317-0802	August 12, 2002	Zoning Map
323-0103	January 27, 2003	Zoning Map
324-0203	February 10, 2003	Zoning Map
333-1103	November 24, 2003	Zoning Map
337-0404	April 12, 2004	Zoning Map
338-0404	April 12, 2004	Zoning Map
340-0504	May 24, 2004	Zoning Map
346-0704	July 26, 2004	Zoning Map
347-1004	October 11, 2004	Zoning Map
349-1204	December 28, 2004	Zoning Map
352-0805	August 8, 2005	Zoning Map
355-1105	November 28, 2005	Zoning Map
358-0206	February 13, 2006	Zoning Map
359-0206	February 13, 2006	Zoning Map
362-0706	July 10, 2006	Bulk Requirements
376-0107	January 8, 2007	Zoning Map
377-0107	January 22, 2007	Zoning Map

ORDINANCE	ADOPTED	SUBJECT
378-0207	February 26, 2007	Zoning Map
387-1007	October 22, 2007	Off-Site Signs
388-1107	November 13, 2007	Zoning Map
390-0308	March 24, 2008	Zoning Map
391-0308	March 24, 2008	Flood Insurance Rate Maps
394-0508	May 27, 2008	Zoning Map
405-1209	December 14, 2009	Home Occupations
2010-406	April 12, 2010	Zoning Map

[The next page is 1015]

CHAPTER 175

SUBDIVISION REGULATIONS

175.01 Purpose
175.02 Policy
175.03 Definitions
175.04 Application and Jurisdiction
175.05 Interpretation
175.06 Action Under Prior Provisions
175.07 Exemption
175.08 Procedure
175.09 Pre-submission Consultations
175.10 Requirements of Preliminary Plat
175.11 Submission, Referral and Review of Preliminary Plat
175.12 Action by the Commission
175.13 Action by Council
175.14 Tentative Approval
175.15 Final Plat
175.16 Requirements of the Final Plat
175.17 Submission and Referral of Final Plat
175.18 Action by the Commission
175.19 Action by the Council
175.20 Resubdivision of Land
175.21 Completion of Improvements
175.22 Performance Bond
175.23 Inspection of Improvements
175.24 Release or Reduction of Performance Bond
175.25 Maintenance of Improvements
175.26 Deferral or Waiver
175.27 Certificates of Occupancy
175.28 Improvements Required
175.29 Design Standards Are Minimum
175.30 Conformance Standards
175.31 Subdivision Name
175.32 Monumentation
175.33 Character of the Land
175.34 Lots
175.35 Blocks
175.36 Streets — General Requirements
175.37 Streets — Design Standards
175.38 Storm Sewers and Drainage
175.39 Water Facilities
175.40 Sewage Facilities
175.41 Sidewalks
175.42 Utilities
175.43 Preservation of Natural Features and Amenities
175.44 Nonresidential Subdivisions
175.45 School and Park Reservations
175.46 Improvements within Unincorporated Jurisdiction
175.47 Variations and Exceptions
175.48 Changes and Amendments
175.49 Enforcement, Violations and Penalties

175.01 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City.

175.02 POLICY. It is hereby declared to be the policy of the City to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the City to provide for the orderly, efficient and economical development of the City.

175.03 DEFINITIONS. For use in this chapter, the following terms or words are defined.

1. "Alley" means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

2. "Applicant" means the owner of land to be subdivided or said owner's representative.

3. "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 or corporate boundaries.

4. "Bond" means any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council.

5. "Building" means any structure built for support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and includes any structure.

6. "Central water system" means a private water system established by the developer to serve a new subdivision or resubdivision. It includes water treatment and distribution facilities.

7. "Central sewage system" means a private sewer system including collection and treatment facilities established by the developer to serve a new subdivision or resubdivision.

8. "City Engineer" means the person designated by the Council to furnish engineering assistance for the administration of these regulations.

9. "Commission" means the Planning and Zoning Commission of the City.

10. "Cul-de-sac" means a municipal service street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.

11. "Developer" means the owner of land proposed to be subdivided (or said owner's representative).

12. "Easement" means an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said person's property.

13. "Frontage" means that portion of a lot abutting on a street or way and complying with the setback and front yard requirements as they may exist, however, it is not considered to be the side of a corner lot.

14. "Individual sewage disposal system" means a septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.

15. "Local board of health" means the County, City or District Board of Health.

16. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

17. "Municipal arterial streets" means those streets which connect principal traffic generating areas or connect such areas with other street systems.

18. "Municipal collector streets" mean those streets that collect traffic from municipal service streets and connect to other street systems.

19. "Municipal service streets" means those streets that primarily provide access to property.

20. "Owner" means any person having legal title to or sufficient proprietary interest in the land to be sought to be subdivided under these regulations.

21. "Plat" means a map, drawing or chart on which the developer's plan of the subdivision of land is presented and which the developer submits for approval and intends, in final form, to record.

22. "Public improvement" means any drainage ditch, roadway, parkway, sidewalk, pedestrian crosswalk, tree, water main, storm sewer, sanitary sewer, lawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established.

23. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use. The usage of the term "right-of-way" for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

24. "Roadway" means that portion of the street available for vehicular traffic and where curbs are laid, the portion from back to back of curbs.

25. "Street" means and includes any public way, highway, street, avenue, boulevard, parkway or other public thoroughfare, and each of such words includes every other of them, and also includes the entire width between property lines.

26. "Subdivider" means the person undertaking the subdivision or resubdivision of a tract or parcel of land.

27. "Subdivision" means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

28. "Surveyor" means a land surveyor licensed and registered under the provisions of Chapter 542B of the Code of Iowa.

175.04 APPLICATION AND JURISDICTION. Every owner (or agent) of any tract or parcel of land located within the corporate City limits or, pursuant to Section 354.9 of the Code of Iowa, within two (2) miles of the corporate limits of the City who shall hereafter subdivide said property by repeated divisions or simultaneous division into three (3) or more parcels, any of which are described by metes and bounds description, for which no plat of survey is recorded, shall cause a subdivision plat of such area to be made in the form, and containing the information, as hereinafter set forth and shall submit said subdivision plat to both the City and the County for approval. Acceptance by the Council and the County Board of Supervisors must be obtained before any lots may be sold or the plat is placed for record.

175.05 INTERPRETATION. In their interpretation or application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Specifically:

1. Relationship to Other Public Provisions. These regulations are not intended to interfere with or to abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

2. Relationship to Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose

higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern.

175.06 ACTION UNDER PRIOR PROVISIONS. These regulations do not abate any action now pending under or by virtue of prior existing subdivision regulations. Nor do they discontinue, abate, modify or alter any penalty accrued or about to accrue or affect the liability of any person or waive any right of the City under any section or provision existing at the time of adoption of these regulations. Nor do they vacate or annul any rights obtained by any person by lawful action of the City except as expressed in these regulations.

175.07 EXEMPTION. By application to the Council, the requirements of Section 175.04 may be waived at any regular or special meeting called for that purpose, provided that the waiver will not result in less restrictive requirements than under Chapter 354 of the Code of Iowa.

175.08 PROCEDURE. In order to obtain final approval of a proposed subdivision by the Council, the subdivider shall submit a preliminary plat in accordance with the requirements of this chapter and install the required improvements or provide a performance bond.

175.09 PRE-SUBMISSION CONSULTATIONS. Prior to the submission of the preliminary plat of any subdivision, the subdivider is encouraged to meet with the City Engineer and other City officials responsible for the administration of these regulations to be advised of the procedural steps, design standards, required improvements and platting requirements. During such meetings, no commitments shall be made which will be binding upon the City.

175.10 REQUIREMENTS OF PRELIMINARY PLAT. Every proposed subdivision shall be submitted for tentative approval in the form of a preliminary plat prior to the submission of a final record plat. The purpose of the preliminary plat and accompanying material is to provide all facts needed for the Commission and Council to determine whether the proposed subdivision is satisfactory from the standpoint of the public interest. The following graphic and descriptive material is required to be provided on the preliminary plat and on the accompanying material.

1. Contents of Preliminary Plat. The preliminary plat shall be prepared by a registered land surveyor holding a certificate issued under the provisions of Chapter 542B of the Code of Iowa, as amended, at a convenient scale of one inch equals one hundred feet (1" = 100'), may be prepared in pen or pencil, and the following information shall be shown on the preliminary plat:

A. Title, scale, north point and date.

B. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners, and giving the bearing and distance from some corner of the subdivision to some corner of the congressional division of which it is a part. Exterior boundaries are to be indicated with a solid heavy line.

C. Present and proposed streets, alleys and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights, fire hydrants and street signs.

D. Proposed layout of blocks and lots, showing dimensions, radii, chords and the square foot areas of lots that are not rectangular, and the lot and block numbers in numerical order.

E. Building setback or front yard lines.

F. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.

G. Present and proposed easements, showing locations, widths, purposes and limitations.

H. Location and names of adjoining parcels of unsubdivided and subdivided land.

I. Boundaries of the highest known flood of record affecting the subdivision and the source of information.

J. If the proposed subdivision borders on a lake or stream, the distances and bearings of meander lines established not less than twenty (20) feet back from the mean high water mark of the lake or stream.

K. Existing blocks, lots and buildings.

L. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each. If the subdivision is within one mile of public sewer or water or both, notation shall be made of the direction and distance to such facilities.

M. Proposed name of the subdivision.

N. Names and addresses of the owner, subdivider, builder and surveyor who prepared the preliminary plat, and the surveyor who will prepare the final plat.

O. Official legal description of the property being platted.

P. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater.

Q. Existing and proposed zoning of the proposed subdivision and adjoining property.

2. Information to Be Provided in Accompanying Material. The following information shall accompany a plat when filing:

A. A complete listing of all existing covenants which apply to the land to be subdivided, and a complete listing of all covenants which are proposed by the developer to apply to the subdivided land.

B. A table of the following information:

(1) Total acreage of the subdivision.

(2) Total number of lots.

(3) Minimum, average and maximum lot area.

(4) Acreage of public lands to be dedicated or reserved other than streets.

C. A Certificate of Title showing the name of the fee titleholder to the property proposed for subdividing and showing any encumbrances that may exist against the land.

D. If any portion of the subdivision is to have access on a State or County jurisdictional street, a written and signed statement acknowledging and permitting the access by the duly authorized official of the appropriate jurisdiction.

E. Specifications and engineering construction drawings including profiles, cross-sections and details of all public improvements. Elevations shall be referred to mean sea level as exhibited in standard U.S. Geological Survey Maps. Specifications and references shall meet those required by the City's construction and specification standards, including a site grading plan for the entire subdivision.

F. An application for tentative approval along with appropriate fees.

G. A complete listing of any and all requested variances to the requirements imposed by this chapter.

175.11 SUBMISSION, REFERRAL AND REVIEW OF PRELIMINARY PLAT.

1. The subdivider shall prepare a preliminary plat in accordance with the provisions of Section 175.10 and shall file with the Clerk an application in triplicate for the tentative approval of the plat. The application shall:

A. Forms and Fees. Be made on forms available from the Clerk together with a fee of ten dollars ($10.00) per lot.

B. Number of Plats. Be accompanied by a minimum of ten (10) copies of the preliminary plat.

C. Time of Submission. Be presented to the Clerk at least four (4) weeks prior to the meeting of the Commission.

2. The Clerk shall immediately refer two (2) copies of the preliminary plat to the City Engineer and seven (7) copies to the Commission. In the case of a subdivision outside the corporate limits of the City, the Clerk shall refer one copy of the preliminary plat to the County Board of Supervisors.

3. The preliminary plat shall be reviewed by the Commission and City Engineer to determine its conformity with these regulations and all other ordinances and regulations in force affecting subdivisions. Copies of the preliminary plat may be transmitted to other City or school officials, as the Commission deems necessary, for their recommendations concerning matters within their jurisdiction. Their recommendations, along with those of the City Engineer, shall be transmitted to the Commission within three (3) weeks after the date the plat is filed. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made.

4. The developer shall pay associated consulting engineering fees for City compliance.

175.12 ACTION BY THE COMMISSION. The Commission, as soon as possible, but not more than thirty (30) days after receiving the preliminary plat, shall pass upon the preliminary plat as originally submitted or modified. If the Commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time period, not to exceed an additional sixty (60) days. The Commission shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. Reasons for Changes or Disapproval. In the event that substantial changes or modifications are made by the Commission or the Commission recommends disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. Tentative Approval. If the Commission recommends approval, it shall express its approval as "Tentative Approval" and state the conditions of such approval, if any.

3. Documenting Approval. The action of the Commission shall be documented on seven (7) copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one copy shall be retained by the Commission, and five (5) copies shall be referred to the Council.

175.13 ACTION BY COUNCIL. Within thirty (30) days of its receipt of the preliminary plat, the Council shall, by resolution, tentatively approve or disapprove the plat. If the preliminary plat is disapproved, objections to it shall be returned to the Commission for further review and the Clerk shall notify the subdivider of such action. If approved, the Clerk shall affix his or her signature to five (5) copies of the preliminary plat with the notation of the date the preliminary plat received the Council's tentative approval. One copy shall be returned to the Commission and three (3) copies shall be returned to the subdivider. The "Tentative Approval" by the Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

175.14 TENTATIVE APPROVAL. The tentative approval of a preliminary plat shall be effective for a period of one year at the end of which time final approval must have been obtained. Any plat not receiving final approval within this period of time shall be void, and the subdivider shall be required to resubmit a new plat for tentative approval subject to all new zoning restrictions and subdivision regulations.

175.15 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

175.16 REQUIREMENTS OF THE FINAL PLAT. The following graphic and descriptive material is required to be provided on the final plat and in the accompanying material.

1. Contents of the Final Plat. Every plat of a subdivision offered for record shall conform to all of the following provisions where applicable:

A. The plat shall be a permanent copy or a photographic print made on a stable plastic film. Exact copies of the plat to be recorded shall be provided to and filed with the County Recorder, Assessor and Auditor. The original plat drawing shall remain the property of the registered land surveyor.

B. The size of each sheet showing any portion of the subdivided lands shall not be greater than eighteen (18) inches by twenty-four (24) inches or less than eight and one-half (8½) inches by eleven (11) inches.

C. Whenever more than one sheet is used to accurately portray the lands subdivided, each sheet shall display the number of the sheet and the total number of sheets included in the plat, as well as clearly labeled match lines indicating where the other sheets adjoin. An index sheet shall be provided to show the relationship between the sheets.

D. A scale of one hundred feet to one inch (100' = 1") shall be used. The scale used shall be clearly stated and graphically illustrated by a bar scale drawn on every sheet showing any portion of the lands subdivided.

E. Subdivisions shall be designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each sheet included in the plat.

F. An arrow indicating the northern direction shall be drawn in a prominent place on each sheet included in the plat, as well as the scale and date.

G. All monuments to be of record shall be adequately described and clearly identified on the plat. When additional monuments are to be established subsequent to the recording of the plat, the location of the additional monuments shall be shown on the plat.

H. Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.

I. All distances shall be shown in feet to the nearest one-hundredth of a foot, and in accordance with the definition of a foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.

J. The course of every boundary line shown on the plat shall be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line having a shown course. All bearings and angles shown shall be given to at least the nearest minute of arc.

K. Curve data shall be stated in terms of radius, central angle and tangent, or length of curve. In all cases, the curve data must be shown for the line affected.

L. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot. The unadjusted error of closure shall be shown on the plat.

M. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a meander line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary shown with as much certainty

as can be determined or as "more or less," if variable. In all cases, the true boundary shall be clearly indicated on the plat.

N. All interior excepted parcels shall be clearly indicated and labeled, "not a part of this plat."

O. All adjoining properties shall be identified and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Re-subdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

P. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

Q. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.

R. The purpose of all areas dedicated to the public must be clearly indicated on the plat.

S. The plat shall contain a statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor, and shall bear the surveyor's Iowa registration number or seal.

T. Street names and clear designation of public alleys.

U. Block and lot numbers.

V. Name and address of owner and subdivider.

W. Accurate dimensions for any property to be dedicated or reserved for public use.

X. The plat shall be signed and acknowledged by the subdivision land owner and his or her spouse.

Y. A sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

Z. A correct legal description of the subdivision land.

2. Information to be Provided in Accompanying Material. The following material shall be submitted with the 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 acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;

B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

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 the purpose of this section.

D. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

E. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

F. A certificate by the City Engineer that all required improvements and installations have been completed according to the construction plans submitted to the City prior to construction or with the final plat if not constructed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

G. The encumbrance bond, if any.

175.17 SUBMISSION AND REFERRAL OF FINAL PLAT.

1. The subdivider shall prepare a final plat in accordance with the provisions of Section 175.16 and shall file with the Clerk an application in triplicate for the final approval of the plat. The application shall:

A. Forms and Fees. Be made on forms available from the Clerk together with a fee of ten dollars ($10.00) per lot.

B. Number of Copies of Plat. Be accompanied by a minimum of ten (10) copies of the final plat.

C. Offers of Dedication. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, City uses, utilities and easements, in a form approved by the City Attorney.

D. Time of Submission. Be presented to the Clerk at least four (4) weeks prior to the regular meeting of the Council.

2. The Clerk shall immediately refer two (2) copies of the final plat to the City Engineer and seven (7) copies to the Commission. In the case of a subdivision outside

the corporate limits of the City, the Clerk shall refer one copy of the final plat to the County Board of Supervisors.

3. The developer shall pay associated consulting engineering fees for City compliance.

175.18 ACTION BY THE COMMISSION. The Commission shall, upon receiving the final plat, as soon as possible, but not more than thirty (30) days after receiving the final plat, consider the final plat, and if the same is recommended for approval, shall submit its recommendation of approval to the Council together with a certified copy of its resolution showing the action of the Commission. If the Commission recommends approval of the final plat, such approval and the date thereof shall be noted on the plat over the signature of both the Chairperson and Secretary of the Commission and the plat and five (5) copies shall be transmitted to the Council, and one copy shall be returned to the subdivider.

175.19 ACTION BY THE COUNCIL. Upon receipt of the certification by the Commission, the Council shall, within sixty (60) days, either approve or disapprove the final plat.

1. Disapproval of Plat. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. Acceptance of Plat. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.

3. Final Approval and Recording of Plat. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

175.20 RESUBDIVISION OF LAND. The following requirements shall govern the resubdividing of land.

1. Procedure for Resubdividing. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved for public use indicated on the map, or any lot line, or if it affects any map or plan legally established prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the same procedure, rules and regulations as for a subdivision.

2. Acreage Lots. Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission and Council may require that such parcel of land allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

175.21 COMPLETION OF IMPROVEMENTS. Before the final plat is approved by the Council, all applicants shall be required to complete, in accordance with the Council's decision and to the satisfaction of the City Engineer, all the street, sanitary sewer, water and

other improvements as required in these regulations, specified in the preliminary plat, and as approved by the Council, and to dedicate the same to the City, free and clear of all liens and encumbrances on the property and public improvements thus dedicated. Said improvements shall be inspected by the City Engineer for compliance with designed plans, City ordinances regarding said improvements, and State law. Before passage of a resolution of acceptance, the City Engineer shall report to the Council that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

175.22 PERFORMANCE BOND. The Council in its discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to approving the final plat, and that, as an alternative, the applicant post a bond at the time of application for final plat approval in an amount estimated by the Council as sufficient to secure to the City the satisfactory construction, installation and dedication of the incompleted portion of required improvements. Final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed. In addition:

1. Approved by City Attorney. Such performance bond shall comply with all statutory requirements and shall be approved by the City Attorney as to form, sufficiency, and manner of execution and shall be in an amount equal to 125% of the anticipated cost of construction of said improvement.

2. Completion Period. The period within which required improvements must be completed shall be specified by the Council in the resolution approving the final plat, shall be incorporated in the bond, and shall not exceed one year from date of final approval.

3. Extension of Completion Period. The performance bond shall be approved by the Council as to the amount and surety and conditions satisfactory to the Council. The Commission may, upon proof of difficulty, recommend to the Council an extension of the completion date set forth in such bond for a maximum period of one additional year. The Council may at any time during the period of such bond accept a substitution of principal or sureties on the bond.

4. Temporary Improvements. The applicant shall build and pay for all costs of temporary improvements required by the Council and shall maintain same for the period specified by the Council. Prior to the construction of any temporary facility or improvement, the developer shall file with the City a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.

5. Failure to Complete Improvement. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Council in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the City may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.

175.23 INSPECTION OF IMPROVEMENTS. The Council shall provide for inspection of required improvements during construction and insure their satisfactory completion. The

applicant shall pay to the City an inspection fee equal to the actual cost of inspection. These fees shall be due and payable upon demand of the City and no building permits or certificates of occupancy shall be issued until all fees are paid. The subdivider shall furnish the Council with a construction schedule prior to the commencement of any and all construction, and notify the City not less than forty-eight (48) hours in advance of readiness for required inspections.

175.24 RELEASE OR REDUCTION OF PERFORMANCE BOND. The performance bond may not be released or reduced except as follows:

1. Certificate of Satisfactory Completion. The Council will not accept dedication of required improvements, or release or reduce a performance bond, until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer has certified to the City through submission of detailed "as built" plans of the subdivision indicating location, dimensions, materials and other information required by the City, that all public improvements are in accordance with construction plans for the subdivision and are in compliance with City ordinances and State statutes.

2. Reduction of Performance Bond. A performance bond may be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat.

175.25 MAINTENANCE OF IMPROVEMENTS. Improvements shall be maintained and a maintenance bond provided as follows:

1. Maintenance of Improvements Before Acceptance. The applicant shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of said improvements by the Council. If there are any certificates of occupancy on a street not dedicated to the City, the City may, on twelve (12) hours' notice, plow the street or effect emergency repairs and charge same to applicant.

2. Maintenance Bond. The applicant shall be required to file a maintenance bond with the City prior to dedication, in an amount considered adequate by the Council, upon the recommendation of the City Engineer and in a form satisfactory to the City Attorney, in order to assure the satisfactory condition of the required improvements for a period of four (4) years for the street pavement and a period of two (2) years for all other improvements after the date of their acceptance by the Council and dedication of same to the City.

3. Maintenance of Unoccupied Subdivision Lots. A developer/owner of any unoccupied lots upon which no construction has been commenced shall be required to comply with the following regulations:

A. The unoccupied lots shall be level to prevent ponding and to provide drainage and the lots shall be seeded with a mixture of grass as approved by the City.

B. The unoccupied lots shall be mowed on a regular basis, at least every two weeks during the growing season.

C. Any and all debris, concrete, rocks, scrap building material, junk, etc. shall be removed and/or placed in approved containers for removal. Timely removal of all debris shall be required.

D. Any and all mud, sand, dirt or debris which is tracked or washed, either voluntarily or involuntarily onto City streets shall be removed by the developer, the owner and/or the contractor.

175.26 DEFERRAL OR WAIVER. Required improvements may be deferred or waived as follows:

1. Waiver of Required Improvements. The Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as in its judgment are not requisite in the interests of the public health, safety and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

2. Deferral of Required Improvements. Whenever it is deemed necessary by the Council to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant shall pay his or her share of the costs of the future improvements to the City prior to the approval of the final plat, or the applicant may post a bond insuring completion of said improvements upon demand of the City.

175.27 CERTIFICATE OF OCCUPANCY. A certificate of occupancy is hereby required to be issued by the Clerk prior to sale of any lot by the developer or developer's agent. No certificate of occupancy shall be issued until all improvements have been installed, inspected and approved by the Council.

175.28 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by the regulations of this chapter in accordance with the specifications and under the supervision of the Council and to its satisfaction.

175.29 DESIGN STANDARDS ARE MINIMUM. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the subdivision, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

175.30 CONFORMANCE STANDARDS. In addition to the requirements established herein, all subdividers shall comply with the following laws, rules and regulations.

1. State Statutes. All applicable statutes of the State of Iowa.

2. City Plans. Any comprehensive plan, public utilities plan and capital improvements program of the City.

3. State Agency Rules. The requirements and rules of State agencies such as the State Department of Natural Resources, State Department of Health and the State Department of Transportation, where applicable.

4. County Standards and Regulations. The standards and regulations of the County Board of Supervisors and County commissions, boards and agencies where applicable.

5. City Standards and Regulations. The standards and regulations adopted by the Council, boards, commissions and agencies of the City.

6. Plat Approval and Conformity. Plat approval may be withheld if a subdivision is not in conformance with the above guides or policy and purposes of these regulations.

175.31 SUBDIVISION NAME. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Council, after consultation with the Commission, shall have the final authority to designate the name of the subdivision which shall be determined at preliminary plat approval.

175.32 MONUMENTATION. Monuments shall be in conformance with the following requirements:

1. Establishment of Permanent Control Monuments. Prior to the offering of the plat of any subdivision for record, the surveyor shall confirm the prior establishment of permanent control monuments at each controlling corner on the boundaries of the parcel or tract of land being subdivided. If no permanent control monuments exist, the surveyor shall establish at least two (2) permanent control monuments for each block created, or if the area subdivided into lots is less than a block in size, at least two permanent control monuments shall be established for the subdivision. Permanent control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of the monument.

2. Other Monuments of Record. Other monuments established prior to the recording of the plat of the subdivision and described on the plat shall be considered monuments of record and shall be given the same weight as original permanent control monuments if the monuments remain undisturbed in their original positions. The additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in subsection 1 of this section.

3. Establishment and Recording of Other Monuments. Monuments other than the permanent control monuments required in subsection 1 of this section shall not be required to be established before the recording of the plat or the conveyancing of lands by reference to the plat if the registered land surveyor includes in the surveyor's statement on the plat that the additional monuments required by these regulations shall be established before a specified future date.

4. Additional Monuments Required. Additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in subsection 1 of this section, and shall be set in all of the following locations whether set prior to the recording of the plat, or subsequent to such recording:

A. At every corner and angle point of every lot, block or parcel of land created.

B. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad or other way.

C. At every point of curve, tangency, reversed curve or compounded curve on every right-of-way line established.

5. Placement of Monument. When the placement of a monument required by this chapter at the prescribed location is impractical, it is permissible to establish a reference monument in close proximity to the prescribed location. If the reference monument is established prior to the recording of the plat and its location properly shown on the plat, the reference monument shall have the same status as other monuments of record. Where any point requiring monumentation has been previously monumented, the existence of the monument shall be confirmed by the surveyor. The existing monument shall be considered a monument of record when properly shown and described on the recorded plat.

175.33 CHARACTER OF THE LAND. Land which the City finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision or its surrounding areas or both, shall not be subdivided or developed unless adequate methods are formulated by the subdivider and approved by the Council, upon recommendation of the Commission, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

175.34 LOTS. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

1. Lot Size. Minimum lot dimensions and sizes shall conform to the requirements of the zoning regulations where applicable, but in no case shall a lot contain less than 7,200 square feet of area or be less than 60 feet wide measured at the building line.

A. Residential lots where not served by public sewer shall be of sufficient size, as determined by the City and subject to any applicable State or County rules or regulations, to accommodate the type of private sewage disposal system proposed by the developer.

B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. Corner lots for residential use shall have an extra twenty (20) feet of width to permit appropriate building setback from and orientation to both streets.

2. Street Access. Each lot shall be provided with satisfactory access to a public street.

3. Double Frontage and Reverse Frontage Lots. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

4. Side Lot Lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

5. Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

6. Building Lines. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Council may require building lines in accordance with the needs of each subdivision.

175.35 BLOCKS. Blocks shall conform to the following requirements:

1. Provision for Lots. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions shall be permitted in blocks adjacent to arterial streets, railroads or waterways.

2. Design Considerations. The lengths, widths and shapes of blocks shall be determined with due regard to:

A. Provision for adequate building sites.

B. Zoning requirements where applicable.

C. Topography.

D. Needs for convenient access, circulation, control and safety of street traffic.

3. Block Lengths. The lengths of blocks shall be appropriate to the type of development contemplated, but block lengths in residential developments shall not exceed 1,200 feet, or be less than 500 feet. Wherever practicable, blocks along arterials and collector streets shall not be less than 1,000 feet in length.

4. Easement Reservation. In blocks over 800 feet in length, the Council may require the reservation of an easement to accommodate utilities, drainage facilities or pedestrian traffic.

5. Pedestrian Crosswalks. Pedestrian crosswalks, not less than ten (10) feet wide, may be required by the Council through the center of blocks more than 800 feet in length. Pedestrian crosswalks shall not exceed twelve percent (12%) in grade unless steps of an approved design are to be constructed.

175.36 STREETS – GENERAL REQUIREMENTS. Streets shall conform with the following general requirements:

1. Frontage on Improved Roads. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street.

2. Grading and Improvement Plan. Streets shall be graded and improved and conform to the City construction standards and specifications and shall be approved as to design and specifications by the City Engineer, in accordance with the construction plans required to be submitted.

3. Topography and Arrangement. Streets shall be conformance with the following requirements related to topography and arrangement:

A. Streets shall be related appropriately to be topography. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.

B. All streets shall be properly integrated with the existing and proposed system of streets and dedicated right-of-way.

C. All arterials shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

D. Municipal service streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

E. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Council such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

F. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

4. Access to State or County Jurisdictional Roads. Whenever any part of a subdivision is designed with access to a road under State or County jurisdiction, permission for access to such roads shall be obtained from the appropriate jurisdiction and such access shall be designed according to the standards of the appropriate jurisdiction.

5. Access to Arterial Streets. Where a subdivision borders on or contains an existing or proposed arterial street, the Council may require that lot access to such streets be limited by one of the following means:

A. Lots shall be designed so as to back onto the primary arterial and front onto a parallel municipal service street; no access shall be provided from the arterial street, and screening shall be provided in a strip of land along the rear property line of such lots.

B. A series of cul-de-sacs entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial street.

C. A frontage or service road, separated from the primary arterial by a planting or grass strip and having access thereto at suitable points.

6. Street Names. Streets that are in alignment with others already existing shall bear the name of the existing streets. The proposed names of new streets shall not

duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council and Commission.

7. Street Name Signs. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the Council. The City shall install all street name signs. The applicant shall deposit with the City at the time of final subdivision approval the estimated cost of installation of each street sign required by the Council.

8. Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the Council.

9. Construction of Streets and Dead-end Streets. Streets and dead-end streets shall be in conformance with the following requirements:

A. Construction of Streets. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, and for efficient provision of utilities. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T or L shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Council may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.

B. Permanent Dead-end Streets. Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Council for access to adjoining property, its terminus shall normally not be nearer to such boundary than 150 feet. However, the Council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with City construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with City construction standards and specifications.

10. Sub-drains. Sub-drains shall be required on all streets being constructed in new subdivisions. The design, location and size of the sub-drains shall be approved by the City.

175.37 STREETS – DESIGN STANDARDS. The following design standards shall apply to the design of streets:

1. General. In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, snow removal, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required:

A. A tangent at least 100 feet long shall be introduced between reverse curves on municipal arterial and municipal collector streets, and 75 feet on municipal service streets.

B. 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 100 feet for municipal service and municipal collector streets, and of such greater radii as the Council shall determine for special cases.

C. Minimum Roadway and Right-of-way Standards:

(1) Municipal arterial streets shall have a right-of-way width of not less than 80 feet and a roadway width of not less than 44 feet.

(2) Municipal collector streets shall have a right-of-way width of not less than 60 feet and a roadway width of not less than 31 feet.

(3) Municipal service streets shall have a right-of-way width of not less than 60 feet and a roadway width of not less than 31 feet.

(4) Frontage streets shall have a right-of-way width of not less than 40 feet and a roadway width of not less than 26 feet.

(5) Cul-de-sacs shall meet all the requirements for a municipal service street and, in addition, shall provide a turnaround with a right-of-way radius of 50 feet and a roadway radius of 40 feet. No cul-de-sac shall exceed 500 feet in length.

D. Street grades, wherever feasible, shall not exceed the following:

(1) Municipal arterial streets - six percent (6%);

(2) Municipal collector streets - eight percent (8%);

(3) Municipal service streets - ten percent (10%);

(4) Frontage streets - six percent (6%).

E. All changes in street grade shall be connected by vertical curves of minimum length in feet equal to twenty (20) times the algebraic difference in percents of grade.

F. No street grade shall be less than one-half (½) of one percent.

2. Street Surfacing and Improvements. After sewer, water and other utilities to be located underground within the right-of-way have been installed by the applicant, the applicant shall construct Portland cement concrete pavement with integral curbs and gutters at a minimum thickness of six and one-half (6½) inches. Adequate provisions shall be made for culverts, drains and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications adopted by the City, and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

3. Excess Right-of-way. Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three to one.

4. Railroads and Limited Access Highways. Railroad rights-of-way and limited access highways were so located as to affect the subdivision of adjoining lands shall be treated as follows:

A. In residential districts, a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."

B. In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.

C. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

5. Intersections. The following standards shall apply to the design of intersections:

A. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than seventy-five (75) degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. No more than two streets shall intersect at any one point unless specifically approved by the Council.

B. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least 800 feet apart.

C. Minimum curb radius at the intersection of two municipal service streets shall be at least twenty (20) feet; and minimum curb radius at an intersection involving a municipal collector street shall be at least twenty-five (25) feet. Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

D. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.

E. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation, including trees, in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

F. The cross-slopes on all streets, including intersections, shall be three percent (3%) or less.

6. Bridges. Bridges of primary benefit to the applicant, as determined by the Council, shall be constructed at the full expense of the applicant without reimbursement from the City. The sharing expense for the construction of bridges not of primary benefit to the applicant as determined by the Council, will be fixed by special agreement between the Council and the applicant. Said cost shall be charged to the applicant pro rata as the percentage of his or her land developed and so served.

7. Alleys. The following design standards for alleys shall be required of all subdividers:

A. Alleys shall be prohibited in residential districts.

B. 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.

C. Alleys shall have a right-of-way of not less than thirty (30) feet and a roadway width of not less than twenty (20) feet.

D. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

E. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Council.

8. Street Dedications and Reservations. The following provisions shall apply to street dedications and reservations:

A. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his or her own subdivision boundaries.

B. Where a subdivision borders an existing narrow street or when City plans or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at his expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the applicant at his or her own expense to the full width as required by these subdivision regulations. Land reserved for any street purposes may not be counted in satisfying yard or area requirements of the zoning regulations whether the land is to be dedicated to the City in fee simple or an easement is granted to the City.

175.38 STORM SEWERS AND DRAINAGE. The following requirements shall apply to the provision of storm sewers and drainage:

1. General Requirements. The Commission shall not recommend for approval any plat of a subdivision which does not make adequate provision for storm or flood

water run-off channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by methods as approved by the Council, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, or for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

2. Nature of Storm Water Facilities. The applicant may be required by the Council to carry away by pipe or open ditch any spring or surface water that may exist either previously to or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

A. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the Council. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be conducted to an approved outfall.

B. If a connection to a public storm sewer will be provided eventually, as determined by the Council, the subdivider shall make arrangement for future storm water disposal by a public storm sewer system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

C. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Council shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by applicable zoning regulations.

D. The Council shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. City drainage studies together with such other studies as shall be appropriate shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Council may withhold approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the Council shall determine. The council also reserves the right to require storm water retention if necessary. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

E. The Council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision

of any portion of the property which lies within the flood plain of any stream or drainage course.

3. Dedication of Drainage Easements. The following shall apply to the dedication of drainage easements.

A. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

B. Drainage easements:

(1) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property outside the street lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.

(2) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(3) The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the Council.

(4) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the area requirement of any lot.

175.39 WATER FACILITIES. Water facilities shall be provided as follows:

1. General Requirements. The following general requirements shall apply to the provision of water facilities within City limits:

A. The City shall provide adequate water mains through the residential subdivision at no cost to the subdivider. The subdivider shall be solely responsible for providing adequate water mains through all other subdivisions. The subdivider shall be solely responsible for the tapping of the main and the provision of a stop box and/or curb box for each connection within all subdivisions.

B. Water main extensions shall be approved by the City.

C. To facilitate the above, the location of all fire hydrants and all water supply improvements shall be shown on the preliminary plat.

2. Individual Wells and Central Water Systems. The following requirements shall apply to the provision of individual wells and central water systems on lands outside the City limits:

A. In the discretion of the Council, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the appropriate County or State agency for testing, and individual wells and central water systems shall be approved by the appropriate County or State health authorities. Orders of approval shall be submitted to the Council.

B. If the Council requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the applicant shall make arrangements for future water service at the time the plat receives final approval. Performance or cash bonds may be required to insure compliance.

3. Fire Hydrants. Fire hydrants shall be required for all subdivisions except those coming under subsection 2 of this section. Fire hydrants shall be located no more than 600 feet apart and within 300 feet of any structures and shall be approved by the City.

175.40 SEWAGE FACILITIES. Sewage facilities shall be provided as follows:

1. General Requirements. The applicant shall install sanitary sewer facilities in a manner prescribed by the City construction standards and specifications. All plans shall be designed in accordance with the rules, regulations and standards of the City and the State Department of Natural Resources or State Department of Public Health. Plans shall be approved by the above agencies.

2. Construction of Sanitary Sewage Systems. Sanitary sewage systems shall be constructed as follows:

A. The subdivider shall install a public sanitary sewage system if the subdivision is within the City and provide sewers accessible to each lot in the subdivision.

B. If the subdivision is outside the City, and public sanitary sewage systems are not reasonably accessible but will become available within a reasonable time, not to exceed fifteen (15) years, the applicant may choose one of the following alternatives:

(1) Install a central sewage system, operated and maintained by the benefited property owners. Where plans for future public sanitary sewage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains.

(2) Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be laid from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer

systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.

C. If the subdivision is outside the City and sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the applicant shall install individual disposal systems or central sewage systems.

3. Individual Disposal System Requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of applicable zoning regulations and these regulations. Percolation tests and test holes shall be made as directed by the City and the results submitted to the local board of health.

4. Water Supply Interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

175.41 SIDEWALKS. The following requirements shall apply to the provision of sidewalks:

1. Location. Sidewalks shall be included within the dedicated non-pavement right-of-way of all streets and shall be located one foot inside the dedicated right-of-way.

2. Construction. Sidewalks shall be improved as required in subsection 2 of Section 175.37 of this chapter, and shall be constructed of Portland cement concrete, four (4) feet wide and four (4) inches thick except at driveway locations where the sidewalk shall be constructed six (6) inches thick. Grade for sidewalks shall be approved by the City Engineer.

175.42 UTILITIES. The following shall apply to the provision of utilities:

1. Location. The Council may require that all utility facilities, including, but not limited to, gas, electric power, telephone and CATV cables, be located underground through the subdivision. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot, including stub-ins, shall be installed at the subdivider's expense. At the discretion of the Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

2. Easements. Easements shall be provided as follows:

A. Easements centered on rear lot lines shall be provided for utilities. Such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

B. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along

side lot lines with satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.

3. Maintenance. The subdivider shall attain written confirmation that the maintenance of all electric infrastructure within the subdivision, including, but not limited to, street lights, will be the responsibility of the electric supplier.

175.43 PRESERVATION OF NATURAL FEATURES AND AMENITIES. Existing features which would add value to residential development or to the City as a whole, such as trees, watercourses and falls, beaches, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be protected against change of grade.

175.44 NONRESIDENTIAL SUBDIVISIONS. The following provisions shall apply to nonresidential subdivisions:

1. General. If a proposed subdivision includes land that is used for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the Council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Council, and shall conform to the proposed land use and standards established in City plans and regulations.

2. Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

A. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

B. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

C. Special requirements may be imposed by the City with respect to street, curb, gutter and sidewalk design and construction.

D. Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer and storm water drainage.

E. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

F. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

175.45 SCHOOL AND PARK RESERVATIONS. If land to be subdivided contains sites that are designated in City plans or plans of other public bodies to be used for schools or

parks, the developer shall reserve such site for such use. If sites which have been reserved are not acquired by the City or other public body within two (2) years of the date of the preliminary plat approval, then such sites may be subdivided by the developer. The appropriate public body may release the reserved site sooner by certifying to the Council that it does not intend to acquire such site within the two-year period. Each developer shall set aside not less than five percent (5%) of the gross area of all property subdivided in new subdivisions and resubdivisions for dedication to public use as parks and recreation areas. Such 5% shall be in addition to the property dedicated for streets, alleys, easements and other public ways.

175.46 IMPROVEMENTS WITHIN UNINCORPORATED JURISDICTION. Improvements in the two-mile unincorporated area under the jurisdiction of these regulations shall be the same as required herein, except as otherwise specifically stated, provided they are not less than that required by the applicable County subdivision regulations, and provided further that all construction plans shall be approved by the County, and completed public roads shall be accepted by the Board of Supervisors for public maintenance.

175.47 VARIATIONS AND EXCEPTIONS. The following shall apply to the granting of variations and exceptions:

1. Hardships. Where the Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, the Council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

A. The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

B. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable, generally, to other property.

C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

D. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

2. Conditions. In granting variations and exceptions the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

3. Procedure for a Variance. A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

175.48 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council; provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law. Such proposed amendments shall first be submitted to the Commission for study and recommendation before the hearing is held. The Commission shall forward its recommendations to the Council within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment.

175.49 ENFORCEMENT, VIOLATIONS AND PENALTIES. No plat or subdivision within the City or within two (2) miles thereof shall be filed or recorded with the County, nor shall any plat or subdivision have any validity until it complies with the provision of these regulations, has been approved by the Council as herein set forth, and further:

1. Issuance of Building Permits. No more than two (2) building permits for each separate tract existing at the time of the effective date of these regulations shall be issued unless the tract has been platted in accordance with these regulations; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by applicable land use regulations such as zoning and restricted residence regulations or additions or improvements to a main or accessory building already legally located upon said tract.

2. Sale or Lease Without Plat. Any person who shall dispose of or offer for sale or lease any lots in the City or addition to the City, until the plat thereof has been acknowledged and recorded as provided in these regulations, shall forfeit and pay fifty dollars ($50.00) for each lot and part of lot sold or disposed of, leased or offered for sale.

[The next page is 1075]

CHAPTER 180

AIRPORT ZONING REGULATIONS

180.01 Definitions
180.02 Airport Zones
180.03 Use Restrictions
180.04 Lighting
180.05 Variances
180.06 Board of Adjustment
180.07 Vote on Variations or Orders
180.08 Judicial Review
180.09 Conflicting Regulations
180.10 Pre-Existing Structures
180.11 Penalties

180.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Airport" means the Independence Municipal Airport.

2. "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 978 feet.

3. "Airport hazard" means any structure or tree or use of land which would exceed the Federal obstruction standards as contained in fourteen (14) Code of Federal Regulations Sections 77.21, 77.23 and 77.25 and which obstructs 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.

4. "Airport primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of 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. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

5. "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.

6. "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.

7. "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.

8. "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.

9. "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.

10. "Minimum obstruction clearance altitude" means the specified altitude in effect between radio fixes on VOR airways, off-airways routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.

11. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

12. "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.

13. "Tree" means any object of natural growth.

14. "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, military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

180.02 AIRPORT ZONES. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Municipal Airport Height Zoning Map. A structure or tree located in more than one (1) 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 as follows:

1. Horizontal Zone. The land lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by:

A. Swinging arcs of 5,000 feet radii from the center of each end of the primary surface of runways 13 and 31, and connecting the adjacent arcs by lines tangent to those arcs (visual runway).

B. Swing arcs of 10,000 feet radii from the center of each end of the primary surface of runways 17 and 35 and connecting the adjacent arcs by lines tangent to those arcs (instrument runway).

(Note: The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.)

No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Municipal Airport Height Zoning Map.

2. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 feet to 1 for a horizontal distance of 4,000 feet. No structure or tree shall penetrate the conical surface in the conical zone, as depicted on the Municipal Airport Height Zoning Map.

3. Approach Zone. The land lying under the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

A. The inner edge of the approach surface is:

(1) 250 feet wide for runways 13 and 31 (visual utility runway).

(2) 500 feet wide for runways 17 and 35 (visual other than utility runway and non-precision instrument runway).

B. The outer edge of the approach zone is:

(1) 1,250 feet for runways 13 and 31 (visual utility runways).

(2) 1,500 feet for runway 35 (visual other than utility runways).

(3) 3,500 feet for runway 17 (non-precision instrument other than utility runways).

C. The approach zone extends for a horizontal distance of:

(1) 5,000 feet at a slope of 20 to 1 for runways 13, 31 and 35 (all visual and non-precision instrument utility runways).

(2) 10,000 feet at a slope of 35 to 1 for runway 17 (non-precision instrument other than utility runways).

No structure or tree shall exceed the approach surface to any runway, as depicted on the Municipal Airport Height Zoning Map.

4. Transitional Zone. The land 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 or tree shall exceed the transitional surface, as depicted on the Municipal Airport Height Zoning Map.

5. Increase in Elevation of Structures. No structure shall be erected in the County 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 in the County.

180.03 USE RESTRICTIONS. Notwithstanding any other provisions of 180.02, no use may be made of land or water within the City or County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. Lighting. All lights or illumination used in conjunction with streets, 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 Municipal Airport or in the vicinity thereof.

2. Visual Hazards. No operation from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Municipal Airport.

3. Electronic Interference. No operation from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

180.04 LIGHTING. Notwithstanding the provisions of 180.03, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure constructed after June 12, 1981, and exceeding 949 feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments. 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 or County 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.

180.05 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property in violation of any section of this chapter, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Airport Manager for an opinion as to the aeronautical effects of such a variance. If the Airport Manager does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

180.06 BOARD OF ADJUSTMENT. The Zoning Board of Adjustment has the powers and duties as provided in this section.

1. Appeals. To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Commission in the enforcement of this chapter.

2. Special Exemptions. To hear and decide special exemptions to the terms of this chapter upon which such Board of Adjustment under such regulations may be required to pass.

3. Variances. To hear and decide specific variances.

The Board of Adjustment shall use the existing rules for its governance and in harmony with the provisions of this chapter. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in his or her absence the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall immediately be filed in the offices of the Clerk and County Auditor, and on due cause shown.

180.07 VOTE ON VARIATIONS OR ORDERS. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant, on any matter upon which it is required to pass under this chapter, or to effect variations of this chapter.

180.08 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the court of record as provided in the Code of Iowa, Section 414.15.

180.09 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

180.10 PRE-EXISTING STRUCTURES. Those structures existing prior to adoption of the ordinance codified in this chapter shall not be affected by the height restrictions herein; provided, however, owners of pre-existing nonconforming structures, trees or uses shall permit the City, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard. No pre-existing nonconforming structure, tree or use shall be replaced, rebuilt, altered, allowed to grow higher, or replanted so as to constitute a greater airport hazard than it was when the ordinance codified by this chapter was adopted.

180.11 PENALTIES. A violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a violation of this Code of Ordinances. Each day a violation continues to exist shall constitute a separate offense.

○ ○ ○ ○ ○ ○ ○ ○ ○ ○