

CODE OF ORDINANCES
OF THE
CITY OF
SIDNEY, IOWA

Prepared By: Local Government Professional Services, Inc.
DBA Iowa Codification
P. O. Box 244
114 E 5th Street
Storm Lake, Iowa 50588
(641) 355-4072
www.sc-ic.com

**CODE OF ORDINANCES
CITY OF SIDNEY, IOWA**

TABLE OF CONTENTS

GENERAL CODE PROVISIONS

CHAPTER 1 - CODE OF ORDINANCES..... 1
CHAPTER 2 - CHARTER..... 9
CHAPTER 3 - MUNICIPAL INFRACTIONS 11
CHAPTER 5 - OPERATING PROCEDURES 21
CHAPTER 6 - CITY ELECTIONS 29
CHAPTER 7 - FISCAL MANAGEMENT 35
CHAPTER 8 - PROCEDURE FOR HEARINGS BY THE CITY COUNCIL 41

ADMINISTRATION, BOARDS, AND COMMISSIONS

CHAPTER 15 - MAYOR..... 71
CHAPTER 16 - MAYOR PRO TEM..... 77
CHAPTER 17 - CITY COUNCIL..... 79
CHAPTER 18 - CITY CLERK 87
CHAPTER 19 - CITY TREASURER..... 95
CHAPTER 20 - CITY ATTORNEY 97
CHAPTER 21 - LIBRARY BOARD OF TRUSTEES..... 105
CHAPTER 22 - PLANNING AND ZONING COMMISSION..... 115
CHAPTER 23 - CITY MANAGER..... 121
CHAPTER 24 - PARK BOARD..... 127
CHAPTER 25 - LOW RENT HOUSING COMMISSION 133

TABLE OF CONTENTS

POLICE, FIRE, AND EMERGENCIES

CHAPTER 30 - POLICE DEPARTMENT	155
CHAPTER 35 - FIRE DEPARTMENT	161

PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	185
CHAPTER 41 - PUBLIC HEALTH AND SAFETY	193
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY	203
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	225
CHAPTER 46 - MINORS.....	231
CHAPTER 47 - PARK REGULATIONS.....	239

NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	255
CHAPTER 51 - JUNK AND JUNK VEHICLES	263
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL	275
CHAPTER 56 - DOG LICENSE REQUIRED	287
CHAPTER 57 - PIT BULLS.....	293
CHAPTER 58 - CHICKENS WITHIN CITY LIMITS	301

TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE	325
CHAPTER 61 - TRAFFIC CONTROL DEVICES.....	329
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....	335
CHAPTER 63 - SPEED REGULATIONS	347
CHAPTER 64 - TURNING REGULATIONS	353
CHAPTER 65 - STOP OR YIELD REQUIRED.....	359
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS	367

TABLE OF CONTENTS

TRAFFIC AND VEHICLES (continued)

CHAPTER 67 - PEDESTRIANS.....	373
CHAPTER 68 - ONE-WAY TRAFFIC	379
CHAPTER 69 - PARKING REGULATIONS	385
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES.....	397
CHAPTER 74 - GOLF CARTS.....	415
CHAPTER 75 - ALL-TERRAIN VEHICLES AND SNOWMOBILES	425
CHAPTER 76 - BICYCLE REGULATIONS	435
CHAPTER 80 - ABANDONED VEHICLES	455

WATER

CHAPTER 90 - WATER SERVICE SYSTEM	475
CHAPTER 91 - WATER METERS.....	485
CHAPTER 92 - WATER RATES	491

SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM.....	515
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	523
CHAPTER 97 - USE OF PUBLIC SEWERS.....	531
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS	539
CHAPTER 99 - SEWER SERVICE CHARGES.....	545

GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL.....	575
CHAPTER 106 - COLLECTION OF SOLID WASTE	585

FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE	601
CHAPTER 111 - ELECTRIC FRANCHISE	615

TABLE OF CONTENTS

FRANCHISES AND OTHER SERVICES (continued)

CHAPTER 113 - CABLE TELEVISION REGULATIONS	627
CHAPTER 115 - CEMETERY	655

REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS	675
CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....	683
CHAPTER 122 - PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.....	691
CHAPTER 123 - HOUSE MOVERS.....	699
CHAPTER 124 - SEXUALLY ORIENTED BUSINESSES	705

STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE.....	745
CHAPTER 136 - SIDEWALK REGULATIONS	753
CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....	763
CHAPTER 138 - STREET GRADES	769
CHAPTER 139 - NAMING OF STREETS.....	775
CHAPTER 140 - CONTROLLED ACCESS FACILITIES	781

BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - DANGEROUS BUILDINGS.....	799
CHAPTER 146 - MANUFACTURED AND MOBILE HOMES	807
CHAPTER 147 - PROPERTY MAINTENANCE CODE	815
CHAPTER 150 - BUILDING NUMBERING	835
CHAPTER 151 - TREES	841

ZONING AND SUBDIVISION

CHAPTER 165 - ZONING REGULATIONS.....	875
CHAPTER 170 - SUBDIVISION REGULATIONS.....	1001

TABLE OF CONTENTS

INDEX

APPENDIX:

USE AND MAINTENANCE OF THE CODE OF ORDINANCES1

SUGGESTED FORMS:

DANGEROUS BUILDINGS - FIRST NOTICE.....7

DANGEROUS BUILDINGS - NOTICE OF HEARING8

DANGEROUS BUILDINGS - RESOLUTION AND ORDER.....9

NOTICE TO ABATE NUISANCE10

NOTICE OF REQUIRED SEWER CONNECTION11

NOTICE OF HEARING ON REQUIRED SEWER CONNECTION12

RESOLUTION AND ORDER FOR REQUIRED SEWER CONNECTION13

CHAPTER 1

CODE OF ORDINANCES

1.01 Title	1.09 Catchlines and Notes
1.02 Definitions	1.10 Altering Code
1.03 City Powers	1.11 Severability
1.04 Indemnity	1.12 Warrants
1.05 Personal Injuries	1.13 General Standards for Action
1.06 Rules of Construction	1.14 Standard Penalty
1.07 Extension of Authority	1.15 Right of Entry
1.08 Amendments	

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Sidney, 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 Sidney, Iowa.
3. “Clerk” means the city clerk of Sidney, 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 Sidney, Iowa.
6. “Council” means the city council of Sidney, Iowa.
7. “County” means Fremont 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 Sidney, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity,

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00.†

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

1.15 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any ordinance, or whenever there is reasonable cause to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by ordinance; provided, however, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, 24-hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

[The next page is 9]

† **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3.

CHAPTER 2

CHARTER

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1[3])

o o o o o o o o o o

CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First offense – a minimum of \$200.00, but not to exceed \$750.00
 - B. Each repeat offense – a minimum of \$400.00, but 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

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

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 24 hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight hours.

3.04 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.

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

(Code of Iowa, Sec. 364.22[9])

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

(Code of Iowa, Sec. 364.22[12])

[The next page is 21]

CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

(Code of Iowa, Sec. 64.24[1a] and [3])

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

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

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

(Code of Iowa, Sec. 22.2 and 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)

7. Public Comments. Public comments are limited to 10 minutes for each individual.

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the

purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

[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 10 eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

(Code of Iowa, Sec. 45.3, 45.5 and 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)

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.

(545 IAC 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.

(545 IAC 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.

(545 IAC 2.5[4])

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

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

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

(545 IAC 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 and/or City Clerk are 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 and/or City Clerk 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 and/or City Clerk shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

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

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

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

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

- (1) The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
- (2) The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
- (3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
- (4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

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

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

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

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

on the internet site along with resolutions posted for all subsequent budget years.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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.

(545 IAC 2.3)

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

(545 IAC 2.4)

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.

(545 IAC 2.4)

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Mayor, Mayor Pro Tem, Clerk, or Deputy Clerk, following Council approval, except as provided by Subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program 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)

o o o o o o o o o o

CHAPTER 8

PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

8.01 Purpose

8.02 General

8.03 Form of Notice of Hearing

8.04 Subpoenas

8.05 Conduct of Hearing

8.06 Method and Form of Decision

8.01 PURPOSE. It is the purpose of this chapter to establish an orderly, efficient, and expeditious process for evidentiary hearings before the Council. The provisions of this chapter apply to a proceeding required by constitution, statute, or ordinance to be determined by the Council after an opportunity for an evidentiary hearing.

8.02 GENERAL.

1. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the Council.
2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.
3. Continuances. The Council may grant continuances for good cause shown.
4. Oaths; Certification. The Council or any member thereof has the power to administer oaths and affirmations.
5. Reasonable Dispatch. The Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

8.03 FORM OF NOTICE OF HEARING. The notice to all parties shall be substantially in the following form, but may include other information:

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

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

8.05 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
2. Oral Evidence. Oral evidence shall be taken only on oath or affirmation.
3. Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in the State.
4. Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in the State.
5. Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.
6. Rights of Parties. Each party shall have these rights, among others:
 - A. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - B. To introduce documentary and physical evidence;
 - C. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 - D. To impeach any witness regardless of which party first called the witness to testify;
 - E. To rebut the evidence against the party; and
 - F. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.
7. Official Notice.
 - A. What May Be Noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of the State or of official records of the City or its departments and ordinances of the City.
 - B. Parties to be Notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
 - C. Opportunity to Refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Council.
8. Inspection of the Premises. The Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:
 - A. Notice of such inspection shall be given to the parties before the inspection is made;

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

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

8.06 METHOD AND FORM OF DECISION.

1. Hearings Before the Council. Where a contested case is heard before the Council, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision. The Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the Council.
2. Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.
3. Effective Date of Decision. The effective date of the decision shall be stated therein.

[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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. Library Board of Trustees
3. Low Rent Housing Commission
4. Fire Chief
5. Cemetery Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is \$3,000.00 per year, payable semiannually.

(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)

[The next page is 77]

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

o o o o o o o o o o

CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

5. 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])

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. City Clerk
2. City Attorney
3. City Manager
4. Planning and Zoning Commission
5. Park Board
6. Zoning Board of Adjustment
7. City Health Officer

17.06 COMPENSATION. The salary of each Council member is \$40.00 for each meeting of the Council attended, payable semiannually.

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

[The next page is 87]

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 Other Publications
18.06 Authentication
18.07 Certification

18.08 Records
18.09 Attendance at Meetings
18.10 Licenses and Permits
18.11 Notification of Appointments
18.12 Elections
18.13 City Seal

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[The next page is 95]

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.

o o o o o o o o o o

CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[The next page is 105]

CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six resident members and one non-resident 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.

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

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

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

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

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

4. Hiring of Personnel. To employ a Librarian, and authorize the Librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Librarian, assistants, and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the Librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the Librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government, and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises, and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises, and bequests accepted by the City by action against the Council.
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 and 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

[The next page is 115]

CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies

22.04 Compensation
22.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 and 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such

improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

[The next page is 121]

CHAPTER 23

CITY MANAGER

23.01 Appointment and Compensation
23.02 Administrative Responsibility

23.03 Powers and Duties Generally

23.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Manager to serve at the discretion of the Council. The City Manager shall receive such annual salary as the Council shall from time to time establish by resolution.

23.02 ADMINISTRATIVE RESPONSIBILITY. The City Manager is directly responsible to the Council for the administration of municipal affairs as directed by that body. All departmental activity requiring the attention of the Council shall be brought before the Council by the City Manager and all Council policy concerning administration shall be coordinated through the City Manager.

23.03 POWERS AND DUTIES GENERALLY. The powers and duties of the City Manager include the following:

1. Administration of all ordinances, resolutions, Council policies, directives, and procedures.
2. Continuous study of the City government's operating procedures, organizations, and facilities and recommendation of fiscal and other policies to the Mayor and Council whenever necessary.
3. Preparation and administration of the City's annual operating budget in conjunction with the City Clerk.
4. Keeping the Mayor and Council informed as to the progress of programs and the status of policies.
5. Coordination and direction of all City services provided through the various departments.
6. Study of possible joint arrangements with municipal boards and commissions, making recommendations for such arrangements as are mutually acceptable and coordinating these activities as agreed upon.
7. Performance of such other duties as may be directed by the Council.

[The next page is 127]

CHAPTER 24

PARK BOARD

24.01 Park Board
24.02 Term of Office
24.03 Vacancies
24.04 Organization

24.05 Compensation
24.06 Duties and Responsibilities
24.07 Penalties
24.08 Swimming Pool

24.01 PARK BOARD. There shall be a Board of Park Commissioners for the City consisting of seven citizens of the Sidney School District of legal age, with a minimum of two members residing within the City limits. Members shall be appointed by the Council.

24.02 TERM OF OFFICE. The term of office for the members of the Park Board shall be overlapping terms of four years.

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

24.04 ORGANIZATION. Within 10 days following an appointment, the Board shall elect one of its members as Chairperson and one as Secretary.

24.05 COMPENSATION. There shall be no compensation attached to the office of Park Commissioner, and all services performed by said Commissioners shall be rendered without compensation therefor.

24.06 DUTIES AND RESPONSIBILITIES. The Commission shall organize and plan activities and events including, but not limited to, parks, playgrounds, recreational centers, cultural functions, and sports programs.

1. The Commission shall recommend and review policies, rules, regulations, ordinances, and budgets relating to parks, playgrounds, recreational centers, cultural functions, and sporting events of the City, and make such reports to the City Council. The Commission shall annually transmit to the City Council a report of its activities and recommendations for the development and operation of parks, recreational centers, playgrounds, cultural facilities, and sports programs.

2. The Commission shall exercise broad responsibility for the development of parks, recreation centers, playgrounds, cultural facilities, and sports programs to serve the City. Special attention shall be given to the development of long-range planning and programming. The Commission is authorized to create and appoint advisory groups to make studies and to disseminate information on all of its activities. The Commission shall plan for the promotion of the general beauty of the City and its approaches. The Commission shall be responsible for integrating its programs with other governmental agencies including, but not limited to, the Sidney Community School District, Fremont County, and other surrounding municipalities.

24.07 PENALTIES. Any person who violates a Board rule or regulation, which has been approved by the Council and adopted by ordinance, may be subjected to the penalties provided for in the ordinance adopting the rule or regulation.

24.08 SWIMMING POOL. The Mayor and Council shall have exclusive control of the swimming pool and the area surrounding it which is incidental to or part of the pool.

[The next page is 133]

CHAPTER 25

LOW RENT HOUSING COMMISSION

25.01 Establishment
25.02 Compensation

25.03 Duties and Responsibilities

25.01 ESTABLISHMENT. The Low Rent Housing Commission consists of five members appointed by the Mayor with the approval of the Council for a revolving five-year term in which one Commissioner would be appointed or reappointed each year. A vacancy on the Commission shall be filled in the same manner as the original appointment for the balance of the unexpired term. The Mayor shall designate a Chairperson and Vice Chairperson from among the Commissioners. The Commissioners shall meet quarterly on the second Tuesday in the months of March, June, September, and December at 7:00 p.m. in the conference room of the Authority.

25.02 COMPENSATION. Members of the Commission shall serve without compensation.

25.03 DUTIES AND RESPONSIBILITIES. The Commission shall exercise all powers of a municipal housing agency as provided in Section 403A.5 of the *Code of Iowa*.

[The next page is 155]

CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Police Chief Appointed

30.07 Powers and Duties of Police Chief
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Contract Law Enforcement
30.12 Standard Operating Procedure

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

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

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

30.04 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.
(Code of Iowa, Sec. 80B.11[2])
(501 IAC 3 and 8)

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

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

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

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

(Code of Iowa, Sec. 321.266)

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

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

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

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items that 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 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a Police Chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.
(Code of Iowa, Sec. 28E.30)

30.12 STANDARD OPERATING PROCEDURE. All police officers shall follow the Standard Operating Procedure established by the City.

[The next page is 161]

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 Fire Chief Appointed
35.07 Duties of Fire Chief
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 Emergency Ambulance Service
35.16 Fees For Deployment of Fire and Rescue Services

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.

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

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

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

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

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

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

35.06 FIRE CHIEF APPOINTED. The Mayor shall appoint the Fire Chief for a term of four years or to fill a vacancy. The Fire Department shall recommend a person for the appointment, but the Mayor is not bound by such recommendation. In the absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 and 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

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

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

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

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 firefighters injured in the performance of their duties as firefighters whether within or outside the corporate limits of the City. All volunteer firefighters shall be covered by the contract.

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

35.11 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 and 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 and 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 and 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 EMERGENCY AMBULANCE SERVICE. The department is authorized to provide emergency ambulance or rescue services, and the accidental injury and liability insurance provided for herein shall include such operation.

35.16 FEES FOR DEPLOYMENT OF FIRE AND RESCUE SERVICES. The City's fire and rescue services shall initiate user fees for the delivery of such services, personnel, supplies, and equipment to the scene of accidents and other incidents, as dispatched, excluding residential responses within the taxing authority of the City. The rate of user fees shall be that which is usual, customary, and reasonable (UCR) which may include any services, personnel, supplies, and equipment. The user fee shall be filed to the appropriate insurance, representing an add-on cost of the claim for damages of the vehicles, property, and injuries. In the event services are required relating to utilities causing safety problems to highway areas, and if the area is deemed unsafe by emergency responders, the same billing process shall apply to said utility, whose equipment-related problems were cause for an emergency services response. The claim costs shall be filed to the insurance coverage of the owner of a vehicle, owner of property, or responsible parties. The fire and rescue services may make rules or regulations and from time to time may amend, revoke, or add rules and regulations, not consistent with this section, as they may deem necessary or expedient in respect to billing for these fees or the collection thereof. All amounts collected as a result of this section shall be placed into a fund established by the fire and rescue services, to be used exclusively for personnel, supplies, and equipment of fire and rescue services. The billing rates shall be established by resolution of the Council.

[The next page is 185]

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment

40.03 Disorderly Conduct
40.04 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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[1d])

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[1e])

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[1f])

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

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

(Code of Iowa, Sec. 723.5)

40.04 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)

[The next page is 193]

CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

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

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

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

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

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

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

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

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

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

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

3. Consumer Fireworks.

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

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

- (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.
- (2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.
- (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.

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

4. Novelties. This section does not apply to novelties.

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

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

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

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

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

41.16 FAILURE TO ASSIST. A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

(Code of Iowa, Sec. 727.12)

[The next page is 203]

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
 - A. Section 21.10 – Injury to Books or Property
 - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

[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 Social Host

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

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

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

(Code of Iowa, Sec. 123.47)

[The next page is 231]

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 that 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 18 years.
 - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that 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 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, that 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. A curfew applicable to minors is established and shall be enforced as follows:
- A. Under Age 16. It is unlawful for any minor under the age of 16 years 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.
- B. Age 16 or 17. It is unlawful for any minor 16 or 17 years of age 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 12:00 midnight and 5:00 a.m. of the following day.
3. Exceptions. The following are exceptions to the curfew:
- A. The minor is accompanied by a responsible adult.
- B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
- C. The minor is present at or is traveling between home and one of the following:
- (1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;
 - (2) Minor's place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning 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 or before the beginning 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 nonsecured 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 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

[The next page is 239]

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering

47.05 Parks Closed
47.06 Camping
47.07 Alcoholic Beverages

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

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 10:30 p.m. to 6:00 a.m.

47.06 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

47.07 ALCOHOLIC BEVERAGES. No person shall possess or consume any alcoholic beverage in any park without Council approval.

[The next page is 255]

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

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

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

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

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Storage and Disposal of Solid Waste **(See Chapter 105)**
3. Dangerous Buildings **(See Chapter 145)**
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 notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 of this section after notice to the property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.
(Code of Iowa, Sec. 364.12[3h])
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.
(Code of Iowa, Sec. 364.13)
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

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

[The next page is 263]

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery, and appliances or parts of such vehicles, machinery, or appliances; iron, steel, or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel, or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.
 - F. Defective or Obsolete Condition. Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

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

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

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

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 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 275]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.12 Confinement
55.02 Animal Neglect	55.13 At Large: Impoundment
55.03 Livestock Neglect	55.14 Disposition of Animals
55.04 Abandonment of Cats and Dogs	55.15 Sanitation
55.05 Livestock	55.16 Right To Kill
55.06 At Large Prohibited	55.17 Number of Animals Limited
55.07 Damage or Interference	55.18 Kennels Prohibited
55.08 Annoyance or Disturbance	55.19 Pet Awards Prohibited
55.09 Vicious Animals	55.20 Tampering With A Rabies Vaccination Tag
55.10 Rabies Vaccination	55.21 Tampering With An Electronic Handling Device
55.11 Owner's Duty	

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.

(Code of Iowa, Sec. 717E.1)

2. "Animal" means a nonhuman vertebrate.

(Code of Iowa, Sec. 717B.1)

3. "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

(Code of Iowa, Sec. 162.2)

4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

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

(Code of Iowa, Sec. 717E.1)

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. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

(Code of Iowa, Sec. 717.B1)

7. "Fair" means any of the following:

(Code of Iowa, Sec. 717E.1)

- 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.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
(*Code of Iowa, Sec. 717E.1*)
9. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.
(*Code of Iowa, Sec. 717.B1*)
10. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.
(*Code of Iowa, Sec. 717.1*)
11. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
12. “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.
(*Code of Iowa, Sec. 717E.1*)
13. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.
(*Code of Iowa, Sec. 162.2*)
14. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.
(*Code of Iowa, Sec. 162.2*)
15. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.
(*Code of Iowa, Sec. 717.B1*)

55.02 ANIMAL NEGLECT.

1. It is unlawful for a person who owns or has custody of an animal and confines that animal to fail to provide the animal with any of the following conditions for the animal's welfare:

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

A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this section.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

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

A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the *Code of Iowa*, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

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

(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS. It is unlawful for a person who owns or has custody of a cat or dog to relinquish all rights in and duties to care for the cat or dog. This section does not apply to any of the following:

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.
2. The delivery of a cat or dog to an animal shelter or that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the *Code of Iowa*.
3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council, except in compliance with the City's zoning regulations, or except in accordance with Chapter 58 of this Code of Ordinances. The provisions of this section also do not apply to the following:

1. The William Jobe Gibson Post of the Sidney American Legion is allowed to use their property and property leased to them from the City as they see fit as long as they follow all City nuisance codes.
2. Equine permits may be given with the consent of the City Council. The property owner and the property that the permit is given to must meet the following conditions.
 - A. The property must be larger than two acres in size.
 - B. The property is not allowed to have more than three horses if the acreage is not greater than two acres in size and properties four acres and larger are allowed up to five horses.
 - (1) There may be a special use permit granted to landowners by the City Council if the land is capable of sustaining the number of horses asked for on the permit. This number cannot exceed 10 horses.
 - C. The permit will be perpetual unless there is a change in ownership of the land, a nuisance has occurred at the property, or the owner fails to follow state and federal laws concerning equine.

D. The property owner must license their horses yearly with a fee as established by resolution of the Council.

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

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

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

55.09 VICIOUS ANIMALS.

1. **Keeping Prohibited.** It shall be unlawful for any person to harbor or keep a vicious animal within the City. An animal is deemed to be vicious when it shall have attacked, bitten, molested, or caused injury to a human or other animal or when propensity to attack or bite humans or animals has been shown to exist through repeated attacks or attempted attacks and where such propensity is known to the owner or ought reasonably be known to the owner thereof. This section shall not apply to guard or attack dogs, providing adequate safeguards are established to protect those humans legally on the premises and the dog is registered as a guard or attack dog with the City.

2. **Public Hearing On Disposition.**

A. If any animal is accused of being vicious, whether at large or restrained on private property, the City Manager or designee may set a public hearing on the disposition of such animal. Pending such public hearing, the animal shall be impounded at a veterinary facility, at the owner's or custodian's expense, provided the owner or custodian:

(1) Shall not remove the dog or other animal from the veterinary facility without the prior written approval of the director or authorized representative; and

(2) Shall make the dog or other animal available for observation and inspection by animal control personnel or members of law enforcement or their authorized representatives.

B. The director or designee may have a dog or other animal impounded or confined and permanently identified by means of photo identification prior to release from impound or confinement.

C. Release of said animal without written authorization of the City Manager or designee is prohibited.

D. The hearing shall be public with opportunity for both sides to appear after at least 10-calendar days' written notice of said hearing.

3. **Terms, Conditions, and Restrictions.** If, at the hearing, the City Manager or designee determines that the allegations are true, the City Manager or designee may require reasonable terms and conditions or restrictions for the training, handling, or maintenance of the animal to abate the condition which gave rise to the hearing. A

license or permit may be revoked if the owner refuses to accept, in writing, any term, condition, or restriction, or fails to attend the hearing. Terms, conditions, or restrictions may include, but are not limited to:

- A. Selection of locations within the owner's property or premises where the animal shall not be kept.
 - B. Requirements as to size, construction, or design of an enclosure where the animal may be kept.
 - C. Specialized training from a trainer or training program approved by the director to correct any of the animal's behavioral problems.
 - D. Surgical spay or neuter of the animal.
 - E. Removal of one or more animals to another location or outside of the City.
 - F. Types and method of restraint, or muzzling, or both.
 - G. Photo identification, or permanent marking, or both, for purposes of identification.
4. Grounds For Destruction. If the City Manager or designee determines:
- A. That the animal is a vicious animal;
 - B. That the owner has failed to restrain such animal reasonably; and
 - C. That it is in the public interest to destroy such animal, the animal shall be destroyed in a manner deemed appropriate to the City after five calendar days unless the determination is appealed to a court of competent jurisdiction.

55.10 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in 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 that has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded 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 days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs established by the impoundment facility, and if an unvaccinated and/or unlicensed dog, by having it immediately vaccinated and/or licensed. If the owner fails to redeem the animal within seven days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 SANITATION. No person owning or having custody or control of an animal shall permit the animal to discharge feces upon any public or private property, other than the property of the person owning or having custody or control of an animal. The person owning or having custody or control of an animal shall be deemed to permit the animal's discharge of feces if said person does not immediately thereafter take steps to remove and clean up the feces from the property.

55.16 RIGHT TO KILL. It is lawful for any person to kill a dog, unlicensed or licensed and wearing a collar with license tag attached, when such dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl or when such dog is attacking or attempting to bite a person.

55.17 NUMBER OF ANIMALS LIMITED. No more than three dogs and/or cats shall be kept on any residential premises. However, this provision shall not make unlawful the keeping of litters. Puppies and kittens are, therefore, exempt from this restriction until reaching the age six months.

55.18 KENNELS PROHIBITED. No person shall establish or maintain an animal kennel within the City unless that individual has been granted a special use permit under Chapter 165.16(7)(C) of this Code of Ordinances.

55.19 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care, or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting, or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.20 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful to tamper with a rabies vaccination tag.

(Code of Iowa, Sec. 351.45)

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:
 - A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the Code of Iowa.
 - B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the Code of Iowa.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

55.21 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE. It is unlawful to tamper with an electronic handling device.

(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:
 - A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
 - B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

[The next page is 287]

CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fee
56.03 License Issued

56.04 License Tag
56.05 Immunization

56.01 ANNUAL LICENSE REQUIRED. Every owner of a dog over the age of six months shall procure a dog license from the Clerk on or before the first day of May of each year. Such license fee shall be due and payable between January 1 and May 1 of each year.

56.02 LICENSE FEE. The annual license fee for each dog is as established by resolution of the Council. Licenses become delinquent May 1 of each year, and the delinquent license fee penalty, as established by resolution of the Council, shall be applied per each month of delinquency, except in those cases where, by reason of residence or age, the dog was not subject to licensing during January 1 to May 1.

56.03 LICENSE ISSUED. Upon payment of the license fee, the Clerk shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence, and a description of the dog. The Clerk shall keep a duplicate of each license issued as a public record.

56.04 LICENSE TAG. Upon issuance of the license, the Clerk shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog for which the license is issued. Any dog found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

56.05 IMMUNIZATION. Before issuance of the license, the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six months from the effective date of the license. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

[The next page is 293]

CHAPTER 57

PIT BULLS

57.01 Definitions

57.02 Keeping Prohibited

57.03 Registered Keeping

57.04 Leash and Muzzle

57.05 Confinement

57.06 Signs

57.07 Insurance

57.08 Microchip

57.09 Spaying and Neutering

57.10 Reporting Requirements

57.11 Sale or Transfer of Ownership Prohibited

57.12 Animals Born of Registered Dogs

57.13 Irrebuttable Presumptions

57.14 Failure to Comply

57.15 Penalty

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

1. Pit bull means:
 - A. The Staffordshire bull terrier breed of dog.
 - B. The American pit bull terrier breed of dog.
 - C. The American Staffordshire terrier breed of dog.
 - D. Any dog of the breed of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, or any combination thereof, or any dog with any percent of any of the above breeds.

57.02 KEEPING PROHIBITED. It shall be unlawful to keep, harbor, own, or, in any way possess within the corporate limits of the City, any pit bull dog; provided that pit bull dogs registered with the City on the date of publication of this chapter may be kept to the standards and requirements set forth in the provisions of this chapter.

57.03 REGISTERED KEEPING. The provisions of 57.02 are not applicable to owners, keepers, or harborers of pit bull dogs registered with the City as of January 23, 2012. The keeping of the dogs, however, shall be subject to the following provisions of this chapter.

57.04 LEASH AND MUZZLE. No persons shall permit a registered pit bull dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless the owner is in physical control of the leash. The pit bull dog may not be leashed to an inanimate object such as; trees, posts, buildings, and the like. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals.

57.05 CONFINEMENT. All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. The pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock when the animals are within the structure. The structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground not less than two feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City. All structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No pit bull dog may be kept on a porch,

patio, or in any part of a house or structure that would allow the dog to exit the building on its own volition. In addition, no animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structures.

57.06 SIGNS. All owners, keepers, or harborers of registered pit bull dogs within the City shall, within 10 days of the effective date of this chapter, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of the animal.

57.07 INSURANCE.

1. All owners, keepers, or harborers of registered pit bull dogs must, within 10 days of the effective date of this chapter provide to the City Clerk proof of personal liability insurance in a single incident amount of \$10,000 for bodily injury or death of any person or damage to property owned by any person which may result from the ownership, keeping, or maintenance of the animal.
2. The owner, keeper, or harborer of a registered pit bull dog must advise the City Clerk if the liability insurance is cancelled, lapsed, or amended to include an exclusion clause governing pit bull dogs.
3. In the event the liability insurance is cancelled, lapsed, or amended to contain an exclusion clause governing pit bull dogs, the owner, keeper, or harborer shall be in violation of the provisions of this chapter and subject to the penalties provided in Section 57.15.

57.08 MICROCHIP. All registered pit bulls shall have an identifying microchip inserted beneath its skin by a licensed veterinarian, at the owner's expense, within two months of the effective date of this chapter and shall present to the City Clerk written proof from the licensed veterinarian that this has been done. The City Clerk shall maintain a file containing the registration numbers and names of the pit bulls and the names and addresses of the owners. The owners shall notify the City Clerk of any change of address.

57.09 SPAYING AND NEUTERING. All registered pit bull dogs shall be spayed or neutered, at the owner's expense, and written proof, from a licensed veterinarian, that this sterilization has been performed shall be presented to the City Clerk. This evidence shall be presented to the City Clerk within the latter of two months from the effective date of this chapter or seven months after the birth of the pit bull.

57.10 REPORTING REQUIREMENTS. All owners, keepers, or harborers of registered pit bull dogs must within 10 days of the incident, report the following information in writing to the City Clerk as required hereinafter:

1. The removal from the City or death of a registered pit bull dog;
2. The birth of offspring of a registered pit bull dog; and
3. The new address of a registered pit bull dog owner, should the owner move within the corporate City limits.

57.11 SALE OR TRANSFER OF OWNERSHIP PROHIBITED. No person shall sell, barter, or, in any other way dispose of a pit bull dog registered with the City to any person within the City unless the recipient person resides permanently in the same household and on the same

premises as the registered owner of the dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of the dog to persons who do not reside within the City.

57.12 ANIMALS BORN OF REGISTERED DOGS. All offspring born of pit bull dogs registered within the City limits must be removed from the City limits within eight weeks of the birth of the animal.

57.13 IRREBUTTABLE PRESUMPTIONS. There shall be an irrebuttable presumption that any dog registered with the City as a pit bull dog or any of those breeds prohibited by Section 57.02 is in fact a dog subject to the requirements of this chapter.

57.14 FAILURE TO COMPLY. It shall be unlawful for the owner, keeper, or harbinger of a pit bull dog registered with the City to fail to comply with the requirements and conditions set forth in this chapter. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of the animal resulting in the immediate removal of the animal from the City.

57.15 PENALTY. Any person violating or permitting the violation of any provision of this chapter shall, upon conviction, be subject to a fine. In addition, the court shall order the registration of the subject pit bull revoked and the dog removed from the City. Should the defendant refuse to remove the dog from the City, the judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this chapter.

[The next page is 301]

CHAPTER 58

CHICKENS WITHIN CITY LIMITS

58.01 Definitions

58.02 Permit Required

58.03 Permit Fee

58.04 Revocation of Permit

58.05 Non-Transferable

58.06 Disposal of Refuse

58.07 Distance From Dwellings

58.08 Storage, Use, and Maintenance

58.09 Penalty

58.01 DEFINITIONS. For use in this chapter, the following terms shall have the following meanings:

1. “Chickens” mean the domestic type of fowl birds kept for their eggs and meat, and shall apply only to those fowl birds with the common characteristics of chickens rather than other types of fowl.
2. “Owner” means any person or persons, firm, association, or corporation owning, keeping, sheltering, or harboring fowl chickens.
3. “Owner” or “person or entity in lawful possession and control of any premises” means the fee title owner of any property or premises, or the person or entity in actual possession or control of such premises under a lease or real estate contract.
4. “Director” or “Director of Compliance” means the person or persons authorized by the City to monitor and enforce the provisions of this chapter. In absence of any particular appointment by the City, the Code Enforcement Officer shall be considered the Director of Compliance for purposes of this chapter.

58.02 PERMIT REQUIRED.

1. No person, firm, association, or corporation in the City shall have in their possession or control, or keep, or harbor, any chickens, as defined in Section 58.01, without having first obtained a permit to do so from the Director, which permit shall be issued only after payment of the required fee and after inspection of the premises by the Director for compliance with this chapter, and the sanitation requirements of this chapter or any other applicable State or local law. No permits for the keeping or harboring of any fowl other than chickens shall be issued. Except as otherwise provided herein, a permit for the keeping of chickens shall be in effect for one year from the date of its issuance. Application for such permits shall be made upon forms furnished by the City. If the permitting officer concludes, as a result of the information contained in the application, that the requirements for a permit have been met, the City Clerk shall issue the permit.
2. Upon expiration, such permit may be renewed by any person, firm, association, or corporation to whom it has been issued by filing an application for a renewal thereof with the Director upon forms to be provided by the City. Approval of the application for renewal of a permit shall be made and the permit issued for the succeeding annual period only after payment of the required fee and after inspection of the premises for compliance with the provisions of this chapter, and the sanitation requirements of this chapter or any other applicable State or local law. Except as otherwise provided herein,

every permit so renewed shall be for one year from and after the date of the renewal, and shall be subject to revocation in the same manner as the original permit.

3. Permits may be issued only to owners of any premises or persons or entities in lawful possession of any premises with the written consent of the owner of said premises, and only for premises consisting of single-family, detached dwellings located in residentially zoned districts within the City corporate limits.

4. Upon issuance of a permit, the owner is deemed to have provided the Director, or designee, the authority and right to enter upon the premises at the Director's discretion for the purpose of inspecting the premises for compliance with this chapter.

58.03 PERMIT FEE. The fee for the initial issuance and any renewal of a permit for the keeping of chickens shall be as established by resolution of the Council. The fee shall not be refundable if the permit is denied or revoked, or if the chickens are removed or die.

58.04 REVOCATION OF PERMIT. The Director may revoke a permit for the keeping of chickens for any violation of the provisions of this chapter, or any other pertinent sections of this Code of Ordinances, or any statute of the State pertaining to the keeping of chickens. Notice of revocation shall be given in writing, delivered personally or by certified mail to the holder of such permit. The notice shall state the grounds upon which the permit has been revoked, and shall state that the holder of the permit is required to remove all chickens from the premises concerned within seven days after receipt of notice of revocation. The notice shall also inform the permit holder of the right to appeal such revocation to the City Council.

58.05 NON-TRANSFERABLE. Any permit issued pursuant to this chapter shall not be sold, assigned, or transferred, and shall apply only to the premises designated and the person, firm, association, or corporation to whom issued. A violation of this provision shall be cause for revocation of any such permit.

58.06 DISPOSAL OF REFUSE. All bedding and spilled grain shall be removed from the premises, or any enclosure or structure thereon, at least once every 48 hours, and shall be placed in suitable watertight and fly tight containers until disposed of. Such materials shall be disposed of in an appropriate manner.

58.07 DISTANCE FROM DWELLING.

1. No person within the City shall keep, shelter, harbor, or coop any chickens within 25 feet of any dwelling other than the dwelling of the owner of such fowl chickens.

2. Under no circumstances shall chickens be permitted to be kept within 20 feet of any dwelling.

58.08 STORAGE, USE, AND MAINTENANCE.

1. All grains and grain supplements intended for use as food for chickens shall be kept and stored in a rodent-tight building or container.

2. No owner or person in lawful possession and control of the premises shall keep, shelter, or harbor more than eight hens at a single residential dwelling.

3. No owner shall slaughter, maim, or otherwise intentionally kill within the corporate limits any of its permitted chickens. Any chicken which may die within

corporate limits shall be immediately removed from the City limits and disposed of by the owner in a hygienic and safe manner.

4. All chickens permitted by the chapter shall be continuously housed or stored in a secure screened or walled and roofed enclosure, coop, shelter, or run in a manner that reasonably protects the chickens from predators, and all of which shall be located entirely within the rear yard of the permitted premises. All such enclosures, coops, or shelters shall be not less than three square feet in size per chicken provided such enclosure, coop, or shelter has a run, and such enclosure, coop, or shelter shall not exceed five feet by five feet, or 25 feet in total diameter; otherwise said enclosure, coop, or shelter shall be not less than 10 feet by five feet.

5. No owner shall allow, whether knowingly or unknowingly, any chickens to run at large or otherwise outside of the enclosure, coop, shelter, or run for which the chickens are housed or stored.

58.09 PENALTY. Any person, firm, partnership, corporation, or any legal entity found guilty of a violation of any of the provisions of this chapter, upon conviction, shall be subject to the penalty provisions of a municipal infraction. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. Any owner that is deemed violating this chapter by the City or the Director shall immediately have said owner's permit revoked and shall be prohibited from receiving another permit for a minimum period of 12 months after revocation of the permit.

[The next page is 325]

CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

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

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
2. "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.
3. "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.
4. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
5. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
6. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
7. "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.
8. "Stop" means when required, the complete cessation of movement.
9. "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.
10. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.

11. “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.

12. “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 County Sheriff.

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

2. 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.

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

o o o o o o o o o o

CHAPTER 61
TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The Council 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 Council shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The Council is hereby authorized 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] and 321.255)

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

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

[The next page is 335]

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 Vehicular Noise
62.08 Engine and Compression Brakes

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

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

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 tobacco, tobacco products alternative nicotine products, vapor products, or cigarettes.
24. Section 321.218 – Operating without valid driver’s license or when disqualified; penalties.
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 – Driver’s license inspection for motor vehicle rental.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles, highway use.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.235B – Low-speed electric bicycles
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.
39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
40. Section 321.263 – Information and aid; leaving scene of personal injury accident.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.
43. Section 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
50. Section 321.284 – Open container in motor vehicles, drivers.

51. Section 321.284A – Open container in motor vehicles, passengers.
52. Section 321.288 – Control of vehicle; reduced speed.
53. Section 321.295 – Limitation on bridge or elevated structures.
54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.306 – Roadways laned for traffic.
61. Section 321.307 – Following too closely.
62. Section 321.309 – Towing.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.

85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.
88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver’s view.
93. Section 321.364 – Preventing contamination of food by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.366 – Acts prohibited on fully controlled-access facilities.
96. Section 321.367 – Following fire apparatus.
97. Section 321.368 – Crossing fire hose.
98. Section 321.369 – Putting debris on highway.
99. Section 321.370 – Removing injurious material.
100. Section 321.371 – Clearing up wrecks.
101. Section 321.372 – Discharging pupils, stopping requirements; penalties.
102. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
103. Section 321.381A – Operation of low-speed vehicles.
104. Section 321.382 – Upgrade pulls; minimum speed.
105. Section 321.383 – Exceptions; slow vehicles identified.
106. Section 321.384 – When lighted lamps required.
107. Section 321.385 – Head lamps on motor vehicles.
108. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
109. Section 321.387 – Rear lamps.
110. Section 321.388 – Illuminating plates.
111. Section 321.389 – Reflector requirement.
112. Section 321.390 – Reflector requirements.
113. Section 321.392 – Clearance and identification lights.
114. Section 321.393 – Color and mounting.
115. Section 321.394 – Lamp or flag on projecting load.
116. Section 321.395 – Lamps on parked vehicles.
117. Section 321.398 – Lamps on other vehicles and equipment.
118. Section 321.402 – Spot lamps.
119. Section 321.403 – Auxiliary driving lamps.

120. Section 321.404 – Signal lamps and signal devices.
121. Section 321.404A – Light-restricting devices prohibited.
122. Section 321.405 – Self-illumination.
123. Section 321.408 – Back-up lamps.
124. Section 321.409 – Mandatory lighting equipment.
125. Section 321.415 – Required usage of lighting devices.
126. Section 321.417 – Single-beam road-lighting equipment.
127. Section 321.418 – Alternate road-lighting equipment.
128. Section 321.419 – Number of driving lamps required or permitted.
129. Section 321.420 – Number of lamps lighted.
130. Section 321.421 – Special restrictions on lamps.
131. Section 321.422 – Red light in front, rear lights.
132. Section 321.423 – Flashing lights.
133. Section 321.430 – Brake, hitch, and control requirements.
134. Section 321.431 – Performance ability.
135. Section 321.432 – Horns and warning devices.
136. Section 321.433 – Sirens, whistles, and bells prohibited.
137. Section 321.434 – Bicycle sirens or whistles.
138. Section 321.436 – Mufflers, prevention of noise.
139. Section 321.437 – Mirrors.
140. Section 321.438 – Windshields and windows.
141. Section 321.439 – Windshield wipers.
142. Section 321.440 – Restrictions as to tire equipment.
143. Section 321.441 – Metal tires prohibited.
144. Section 321.442 – Projections on wheels.
145. Section 321.444 – Safety glass.
146. Section 321.445 – Safety belts and safety harnesses; use required.
147. Section 321.446 – Child restraint devices.
148. Section 321.449 – Motor carrier safety rules.
149. Section 321.449A – Rail crew transport drivers.
150. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
151. Section 321.450 – Hazardous materials transportation regulations.
152. Section 321.454 – Width of vehicles.
153. Section 321.455 – Projecting loads on passenger vehicles.

- 154. Section 321.456 – Height of vehicles.
- 155. Section 321.457 – Maximum length.
- 156. Section 321.458 – Loading beyond front.
- 157. Section 321.460 – Spilling loads on highways.
- 158. Section 321.461 – Trailers and towed vehicles.
- 159. Section 321.462 – Drawbars and safety chains.
- 160. Section 321.463 – Maximum gross weight; exceptions, penalties.
- 161. Section 321.465 – Weighing vehicles and removal of excess.
- 162. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. The County Sheriff 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 VEHICULAR NOISE.

1. It is unlawful for any person to make, continue, or cause any disturbing, excessive, or offensive noise which results in discomfort or annoyance to any reasonable person of normal sensitivity by means of radio, compact disc player, stereo, speakers, cassette tape player, or similar sound device in a motor vehicle.
2. The operation of any radio, compact disc player, stereo, speakers, cassette tape player, or similar sound device in such a manner so as to be audible at a distance of 200 feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

62.08 ENGINE AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle.
2. The usage of an engine brake, compression brake, or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of 300 feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

[The next page is 347]

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Main Street, from the southern City limit to Hillcrest Drive.
 - B. On Filmore Street, from the eastern City limit to Locust Street.
 - C. On Foote Street, from the western City limit to Main Street.

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

(Code of Iowa, Sec. 321.294)

63.06 CONTROLLED ACCESS FACILITIES. Speed limits on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

[The next page is 353]

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns

64.03 Left Turn for Parking

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 Council 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; however, U-turns are prohibited within the Business District at the following designated intersections and at intersections where there are automatic traffic signals.

(Code of Iowa, Sec. 321.236[9])

- NONE -

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

[The next page is 359]

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets

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

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

(Code of Iowa, Sec. 321.345)

1. Maple Street, from Foote Street to Cherry Street.
2. Illinois Street, from Clay Street to the northern City limit.
3. Main Street, from Clay Street to the southern City limit.
4. Filmore Street, from Maple Street to the eastern City limit.
5. Indiana Street, from Clay Street to Cass Street.
6. Foote Street, from Main Street to the western City limit.

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

(Code of Iowa, Sec. 321.345)

1. Maple Street. Vehicles traveling on Maple Street shall stop at Filmore Street.
2. Maple Street. Vehicles traveling south on Maple Street shall stop at Foote Street.
3. Filmore Street. Vehicles traveling west on Filmore Street shall stop at Maple Street.
4. West Street. Vehicles traveling south on West Street shall stop at Foote Street.
5. North Street. Vehicles traveling east on North Street shall stop at Nebraska Street.
6. Nebraska Street. Vehicles entering Nebraska Street from the Elementary School parking lot shall stop.
7. Nebraska Street. Vehicles traveling on Nebraska Street shall stop at Webster Street.
8. Fletcher Street. Vehicles traveling east on Fletcher Street shall stop at Illinois Street.
9. Webster Street. Vehicles traveling on Webster Street shall stop at Illinois Street.
10. Illinois Street. Vehicles traveling south on Illinois Street shall stop at Filmore Street.

11. Filmore Street. Vehicles traveling east on Filmore Street shall stop at Illinois Street.
12. Cass Street. Vehicles traveling east on Cass Street shall stop at Illinois Street.
13. Clay Street. Vehicles traveling east on Clay Street shall stop at Main Street.
14. Douglas Street. Vehicles traveling on Douglas Street shall stop at Main Street.
15. Foote Street. Vehicles traveling on Foote Street shall stop at Main Street.
16. Draper Drive. Vehicles traveling west on Draper Drive shall stop at Main Street.
17. Hillcrest Drive. Vehicles traveling west on Hillcrest Drive shall stop at Main Street.
18. Cass Street. Vehicles traveling west on Cass Street shall stop at Indiana Street.
19. Indiana Street. Vehicles traveling on Indiana Street shall stop at Filmore Street.
20. Ohio Street. Vehicles traveling on Ohio Street shall stop at Filmore Street.
21. East Street. Vehicles traveling on East Street shall stop at Filmore Street.
22. Division Street. Vehicles traveling north on Division Street shall stop at Filmore Street.
23. Locust Street. Vehicles traveling north on Locust Street shall stop at Filmore Street.
24. Walnut Street. Vehicles traveling on Walnut Street shall stop at Filmore Street.
25. 290th Street. Vehicles traveling on 290th Street shall stop at Filmore Street.
26. 292nd Street. Vehicles traveling north on 292nd Street shall stop at Filmore Street.
27. West Street. Vehicles traveling on West Street shall stop at Webster Street.
28. West Street. Vehicles traveling on West Street shall stop at Filmore Street.
29. West Street. Vehicles traveling on West Street shall stop at Cass Street.
30. West Street. Vehicles traveling on West Street shall stop at Clay Street.
31. Locust Street. Vehicles traveling on Locust Street shall stop at Cass Street.

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 North Street and West Street.

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

(Code of Iowa, Sec. 321.345)

1. Cherry Street. Vehicles traveling west on Cherry Street shall yield at Maple Street.
2. Fletcher Street. Vehicles traveling west on Fletcher Street shall yield at Maple Street.

3. Wilson Street. Vehicles traveling east on Wilson Street shall yield at Maple Street.
4. Willow Lane. Vehicles traveling east on Willow Lane shall yield at Maple Street.
5. North Street. Vehicles traveling west on North Street shall yield at Maple Street.
6. Webster Street. Vehicles traveling west on Webster Street shall yield at Maple Street.
7. Cass Street. Vehicles traveling west on Cass Street shall yield at Maple Street.
8. Park Street. Vehicles traveling east on Park Street shall yield at Maple Street.
9. Clay Street. Vehicles traveling west on Clay Street shall yield at Maple Street.
10. West Street. Vehicles traveling on West Street shall yield at Fletcher Street.
11. Nebraska Street. Vehicles traveling on Nebraska Street shall yield at Filmore Street.
12. Nebraska Street. Vehicles traveling on Nebraska Street shall yield at Cass Street.
13. Nebraska Street. Vehicles traveling on Nebraska Street shall yield at Clay Street.
14. Illinois Street. Vehicles traveling south on Illinois Street shall yield in turn lane at Clay Street.
15. Illinois Street. Vehicles entering Illinois Street from north square parking will yield at Illinois Street.
16. Indiana Street. Vehicles traveling on Indiana Street shall yield at Webster Street.
17. Indiana Street. Vehicles merging onto Indiana Street from south end of square will yield at Indiana Street.
18. Clay Street. Vehicles traveling west on Clay Street shall yield at Indiana Street.
19. Ohio Street. Vehicles traveling on Ohio Street shall yield at Webster Street.
20. Ohio Street. Vehicles traveling on Ohio Street shall yield at Cass Street.
21. Ohio Street. Vehicles traveling on Ohio Street shall yield at Clay Street.
22. Ohio Street. Vehicles traveling on Ohio Street shall yield at Douglas Street.
23. East Street. Vehicles traveling north on East Street shall yield at Webster Street.
24. East Street. Vehicles traveling on East Street shall yield at Cass Street.
25. East Street. Vehicles traveling on East Street shall yield at Clay Street.
26. East Street. Vehicles traveling on East Street shall yield at Douglas Street.
27. Division Street. Vehicles traveling north on Division Street shall yield at Clay Street.

28. Division Street. Vehicles traveling south on Division Street shall yield at Cass Street.
29. Birch Street. Vehicles traveling north on Birch Street shall yield at Clay Street.
30. Locust Street. Vehicles traveling south on Locust Street shall yield at Clay Street.
31. Cass Street. Vehicles traveling east on Cass Street shall yield at Walnut Street.
32. Walnut Street. Vehicles traveling south on Walnut Street shall yield at Clay Street.

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 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)

- NONE -

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)

[The next page is 367]

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 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 and 472)

66.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The Council may, upon application and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified by State law or the City over those streets or bridges named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

(Code of Iowa, Sec. 321.473 and 321E)

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:

(Code of Iowa, Sec. 321.473 and 475)

1. Five-ton limit on Illinois Street, from northern City limit to Clay Street.
2. Five-ton limit on Main Street, from Foote Street to Clay Street.
3. Five-ton limit on Indiana Street, from Clay Street to Filmore Street.
4. Five-ton limit on Filmore Street, from Maple Street to 290th Avenue.

66.04 TRUCK ROUTES. Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing five 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. Main Street, from the southern City limit to Foote Street.
 - B. Foote Street, from Main Street to the western City limit.
 - C. Maple Street, from the southern City limit to the northern City limit.
2. Deliveries Off Truck Route. Any motor vehicle weighing five tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite

stop and shall proceed thereto, load or unload, and return by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

3. Employer's Responsibility. The owner or any other person employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

(Code of Iowa, Sec. 321.473)

[The next page is 373]

CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use of 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 OF SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

[The next page is 379]

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. Illinois Street shall be southbound only from Filmore Street to Clay Street.
2. Indiana Street shall be northbound only from Clay Street to Filmore Street.
3. Clay Street shall be westbound only from Illinois Street to Indiana Street.
4. The alley from Cass Street to Clay Street, between Nebraska Street and Illinois Street, shall be southbound only.
5. Fletcher Street, from West Street to Illinois Street shall be eastbound only, Monday through Friday. One-way traffic will be enforced from 30 minutes before and after normal school hours during the school year.

[The next page is 385]

CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.08 No Parking Zones
69.02 Parking on One-Way Streets	69.09 Truck Parking Limited
69.03 Angle Parking	69.10 Snow Emergency
69.04 Manner of Angle Parking	69.11 Parking Limited To 30 Minutes
69.05 Parking for Certain Purposes Illegal	69.12 Controlled Access Facilities
69.06 Parking Prohibited	69.13 Supplemental Parking Regulations
69.07 Persons with Disabilities Parking	

69.01 PARK ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 18 inches of the 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 PARKING ON ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within 18 inches of the 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. Illinois Street, on the west side, from Filmore Street to Clay Street.
2. Indiana Street, on the west side, from Filmore Street to Clay Street.
3. Indiana Street, on the east side, in front of 709 Indiana Street.
4. Clay Street, on the south side, from Illinois Street to the alley from Cass Street to Clay Street between Ohio Street and Indiana Street.
5. Clay Street on the north side, from Illinois Street to the alley from Cass Street to Clay Street between Ohio Street and Indiana Street.
6. Filmore Street, in the center, between Illinois Street and Indiana Street.
7. Cass Street, on both sides, from Illinois Street to the alley from Filmore Street to Cass Street between Nebraska Street and Illinois Street.

69.04 MANNER OF ANGLE PARKING. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle or the load thereon, when said vehicle is parked within a diagonal parking district, shall extend into the roadway more than a distance of 16 feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 24 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

(Code of Iowa, Sec. 321.236[1])

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

69.06 PARKING PROHIBITED. No one shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358[11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

(Code of Iowa, Sec. 321.358[13])

14. Churches, Nursing Homes, and Other Buildings. A space of 50 feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than 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 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection do not apply to a vehicle parked in any alley that is 18 feet wide or less, provided that said vehicle is parked to deliver goods or services.

(Code of Iowa, Sec. 321.236[1])

16. Ramps. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.

(Code of Iowa, Sec. 321.358[15])

17. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

18. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

69.07 PERSONS WITH DISABILITIES PARKING. The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the *Code of Iowa* and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

(Code of Iowa, Sec. 321L.4[2])

A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit.

- B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*.
 - C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
 - B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

69.08 NO PARKING ZONES. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

(Code of Iowa, Sec. 321.236[1])

1. Filmore Street, on either side, from the eastern City limit to Indiana Street.
2. Filmore Street, on the north side, from Illinois Street to Indiana Street.
3. Ohio Street, on either side, from Filmore Street to Cass Street.
4. Nebraska Street, on the west side, from North Street to Douglas Street.
5. Maple Street, on either side, from the northern City limit to Foote Street.
6. Birch Street on the east side.
7. Rupp Road on either side.
8. Foote Street, on either side, from Main Street to Maple Street.
9. Main Street, on either side, from Clay Street to 100 feet south of Hillcrest Drive; except for funeral parking from Douglas Street to Foote Street on the west side of Main Street.

69.09 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section do not apply to pick-up, light delivery, or panel delivery trucks.

(Code of Iowa, Sec. 321.236[1])

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any street within the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner that will not interfere with other traffic.
2. All Night. No such vehicle shall be left unattended or parked upon any City streets or alleys for a period of time longer than one hour between the hours of 11:00 p.m. and 7:00 a.m. of any day.

3. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 11:00 p.m. and 7:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment, or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.
4. Livestock. No such vehicle containing livestock shall be parked on any street, alley, or highway for a period of time of more than 30 minutes.

69.10 SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during 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.

(Code of Iowa, 321.236[1])

69.11 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday as identified by the City and where posted in the downtown square area.

69.12 CONTROLLED ACCESS FACILITIES. Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

69.13 SUPPLEMENTAL PARKING REGULATIONS. The following regulations shall apply to the parking of boats, inoperable vehicles, non-motorized vehicles, oversized vehicles, and recreational vehicles.

1. Definitions. The following definitions apply to terms used in this section:
 - A. "Boat" means any vehicle that is designed or intended to operate on any body of water and can be propelled by such motive power as oars, paddles, wind, or engine. This definition shall be interpreted to include all personal watercraft.
 - B. "Inoperable vehicle" means any vehicle which does not have current vehicle registration tags or is not capable of lawful operation upon a public street or highway or has not moved by its own power for more than 30 days, or any vehicle which because of its defective or obsolete condition, or rotted, rusted, or loose parts, or which in any other way constitutes a threat to the health and safety of citizens.
 - C. "Non-motorized vehicles" means any trailer or any other device that is not self-propelled.
 - D. "Oversized vehicle" means any vehicle or off-highway vehicle (excluding recreational vehicles and boats) the length of which is greater than 240 inches or the width of which is over 84 inches or the height of which is over 84 inches or the weight of which exceeds 8,000 pounds.
 - E. "Personal vehicles" means passenger cars, vans, and pick-up trucks.
 - F. "Recreational vehicle" means any vehicle primarily designed for recreational use or for temporary living quarters that are incidental to recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Typical examples include motor

home or coach, travel trailers, camping or tent trailer, camper shells, toppers, and other similar appurtenances intended for attachment to a personal vehicle and trailers under 20 feet in length.

G. “Residential district” means any property or group of properties designated by a residential zoning classification on the Official Zoning Maps of the City.

2. General Regulations. The following conditions shall apply to the parking of vehicles within the zoning jurisdiction of the City: ·

A. The parking or storage of inoperable vehicles is prohibited on any lot or any public street or way, except in enclosed buildings or where otherwise permitted by this Code of Ordinances.

B. The storage, keeping, or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, is prohibited on any lot, parcel, or tract of land (or part thereof), except in enclosed buildings or garages or where otherwise permitted by this Code of Ordinances. ·

3. Residential Zoning District Regulations. The following conditions shall apply to the parking of vehicles within residential zoning districts of the City:

A. Parking of any vehicle is permitted within any enclosed building when such building conforms to the regulations of its residential zoning district.

B. Oversized vehicles shall not be stored on any lot, except in enclosed buildings or garages, or on any public street or way within a residential zoning district. ·

C. Parking and storage of recreational vehicles and boats within residential districts are subject to the following conditions:

(1) Recreational vehicles and boats must be maintained in a clean, well-kept state.

(2) Recreational vehicles may be used as temporary housing by non-paying guests for a maximum of three consecutive days or 14 days total during any calendar year. Cooking in the recreational vehicle is prohibited at all times.

(3) Recreational vehicles may not be permanently connected to utilities on any parcel.

(4) Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.

(5) Recreational vehicles may be parked on a public street or way, as necessary for loading or unloading, for periods not exceeding 24 hours.

D. Parking, storage, or keeping, other than in a fully-enclosed garage, of any inoperable vehicle is prohibited in any residential district, except that automobiles inoperable by reasons of repair work being done thereon may be parked on the residential lot under the following conditions:

(1) The vehicle is owned by the occupier of the premises and registered to said owner at that address.

- (2) The period of said repair work does not exceed 10 days in duration.
- (3) Repair work is, at all times, conducted on a paved driveway.
- (4) Repair work is being performed with the intention of restoring the vehicle to the capability of lawful operation upon a public street.
- (5) No more than one automobile in need of repair is situated on the premises at the same time.

[The next page is 397]

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 and 321.485)

70.02 SCHEDULED VIOLATIONS. For violations of the Traffic Code that are designated by Section 805.8A of the *Code of Iowa* to be scheduled violations, the scheduled fine for each of those violations shall be as specified in Section 805.8A of the *Code of Iowa*.

(Code of Iowa, Sec. 805.8 and 805.8A)

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of \$50.00 for snow emergency parking violations and \$20.00 for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The simple notice of a fine for improper use of a persons with disabilities parking permit is \$100.00.

(Code of Iowa, Sec. 321.236[1b] and 321L.4[2])

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

70.05 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code; and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot, or highway to the

nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

(Code of Iowa, Sec. 321.236[1])

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

(Code of Iowa, Sec. 321.236[1])

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

(Code of Iowa, Sec. 321.236[1])

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

(Code of Iowa, Sec. 321.236[1])

[The next page is 415]

CHAPTER 74

GOLF CARTS

74.01 Purpose
74.02 Operation of Golf Carts Permitted
74.03 Operation

74.04 Motor Vehicle Law
74.05 Golf Cart Insurance
74.06 Violation and Penalty

74.01 PURPOSE. The purpose of this chapter is to regulate the operation of golf carts within the City limits. This chapter shall be applicable whenever a golf cart is operated on any street or alley.

74.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons possessing a valid Iowa operator's license and who are at least 18 years of age, except where otherwise prohibited by this chapter or the *Code of Iowa*.

74.03 OPERATION.

1. Traffic Code. Any person operating a golf cart, including those for which a City permit has been issued, shall adhere to all traffic signs and signals and all other traffic rules and regulations and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic or the direction of a fire department officer during a fire.
2. Speed. No golf cart shall be operated at a speed in excess of the lesser of 25 miles per hour or a posted speed limit, nor shall any golf cart be operated at a speed greater than is reasonable for the existing conditions.
3. Trails. Golf carts shall not be operated on any recreational, bike, or walking trails, unless the trail is specifically designed to allow use of motor vehicles.
4. Sidewalks. Golf carts shall not be operated upon sidewalks at any time.
5. Parking. Golf carts shall not be operated or parked upon that portion of a street right-of-way between the curb or edge of street paving and the sidewalk, referred to as "the parking."
6. Parks. Golf carts shall not be operated within City parks and other land owned by the City unless for a special event authorized by the City Council or Mayor, and the operator possesses a valid driver's license.
7. Equipment. Golf carts operated upon streets within the City shall be equipped with at least the following:
 - A. A "slow moving vehicle" sign.
 - B. A bicycle safety flag, the top of which shall be a minimum of five feet from ground level.
 - C. Adequate brakes.
 - D. Headlights.
 - E. Taillights.
 - F. Brake lights.

8. Hours of Operation. Golf carts may be operated on City streets only from sunrise to sunset between April 1 and October 31.
9. Riding on Golf Carts. A person operating a golf cart shall not ride other than on a permanent seat which is designed to be a part of the golf cart and permanently attached thereto. No golf cart shall be used to carry more persons at a time than the number for which it is designed and equipped.
10. Permits. No person shall operate a golf cart on any public street or alley for any purpose unless granted permission by the City Council or Mayor for a special event, or unless it is a designated City, County, or State golf cart, or unless the operator possesses a City permit to operate a golf cart on City streets, issued by the City Clerk or authorized designee.
 - A. Golf cart owners may apply for a permit from the Clerk on forms provided by the City.
 - B. The Clerk shall not issue a permit until the owner/operator has provided the following:
 - (1) Evidence that the operator is at least 18 years of age and possesses a valid driver's license.
 - (2) Proof that the owner/operator has liability insurance covering operation of golf carts on City streets.
 - C. The applicant for a permit to operate a golf cart on the City streets, as a part of the application, shall verify the golf cart complies with State law and provisions of this chapter.
 - D. The operator of a golf cart shall prominently display the City permit on a rear fender or similar component of the golf cart.
 - E. All permits issued shall uniquely identify the name and address of the owner/operator of the golf cart.
 - F. The fee for a permit to operate a golf cart on the City streets and alleys shall be established by resolution of the Council.

74.04 MOTOR VEHICLE LAW. Persons authorized to operate golf carts pursuant to this chapter shall obey all statutes and ordinances governing the operation of motor vehicles to the extent practically applicable.

74.05 GOLF CART INSURANCE. Financial responsibility required. The owner/operator of every golf cart being operated upon the streets and alleys of the City shall have in effect liability insurance covering operation of the golf cart in the same limits as required of automobiles by the financial responsibility provision of Section 321A of the *Code of Iowa*.

74.06 VIOLATION AND PENALTY.

1. Any person guilty of violating the provisions herein shall be guilty of a misdemeanor and shall be subject to a fine and revocation of the City permit, if applicable, for a two-month period.
2. Any person guilty of violating this ordinance two times in a 12-month period shall be subject to a fine and revocation of the City permit for a period of one year.

3. Any person guilty of violating this ordinance three times in a 12-month period shall be subject to fine and permanent revocation of the City permit.

[The next page is 425]

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose	75.06 Hours of Operation
75.02 Definitions	75.07 Insurance
75.03 General Regulations	75.08 Negligence
75.04 Operation of Snowmobiles	75.09 Accident Reports
75.05 Operation of ATVs and UTVs	75.10 Violation and Penalty

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 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Code of Iowa, Sec. 321I.1)

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1)

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

(Code of Iowa, Sec. 321I.1)

A. “Off-road utility vehicle – Type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – Type 2” includes vehicles, other than Type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – Type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

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

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or

less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1)

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 and Ch. 321I)

75.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on the streets and alleys for the purpose of traveling, using the most direct route, to and from the owner's residence and the nearest City limits. Snowmobiles may also be operated on a route which has been designated and approved by the Council for entrance to the City for purposes of obtaining fuel or food. Such route shall be clearly marked by the local snowmobile club and approved by the Council on an annual basis.

2. 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 90 degrees 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 that constitutes an immediate hazard; and

(4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

(Code of Iowa, Sec. 321G.9[2])

3. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

4. 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.

5. 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.
6. Near Hospitals or Nursing Homes. No snowmobile shall be operated within 300 feet of any hospital or nursing home.
7. Private Property. No snowmobile shall be operated on private property.

75.05 OPERATION OF ATVS AND UTVS. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Traffic Code. Any person operating an ATV or UTV, including those for which a City permit is issued, shall adhere to all traffic signs and signals and all other traffic rules and regulations and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic or the direction of a fire department officer during a fire.
2. Speed. No ATV or UTV shall be operated at a speed in excess of the lesser of 25 miles per hour or a posted speed limit, not shall any ATV or UTV be operated at a speed greater than is reasonable for the existing conditions.
3. Trails. ATVs and UTVs shall not be operated on any recreational, bike, or walking trails, unless the trail is specifically designed to allow use of motor vehicles.
4. Parks and Other City Land. ATVs and UTVs shall not be operated in any park, playground, or upon any other City-owned property, unless for a special event authorized by the City Council or Mayor and the operator possesses a valid driver's license.
5. Sidewalk. Neither ATVs nor UTVS shall be operated upon sidewalks at any time unless they are clearing snow.
6. Parking. ATVs and UTVs shall not be operated or parked upon that portion of a street right-of-way between the curb or edge of a street paving and the sidewalk, referred to as "the parking,"
7. Equipment. ATVs and UTVs operated upon streets within the City shall be equipped with at least the following:
 - A. A bicycle safety flag, the top of which shall be a minimum of five feet from ground level.
 - B. Adequate brakes.
 - C. Headlights.
 - D. Taillights.
 - E. Brake lights.
8. Riding. A person operating an ATV or UTV shall not ride other than on a permanent seat which is designed to be part of the ATV or UTV and permanently attached thereto. No ATV or UTV shall be used to carry more persons at a time than the number for which it was designed.

9. Permits. No person shall operate an ATV or UTV on any public street or alley for any purpose unless granted permission by the City Council or Mayor for a special event, or unless it is a designated City, County, or State ATV or UTV, or unless the operator possesses a City permit to operate an ATV or UTV on City Streets, issued by the City Clerk.

A. ATV and UTV owners may apply for a permit from the Clerk on forms provided by the City.

B. The Clerk shall not issue a permit until the owner/operator has provided the following:

(1) Evidence that the operator is at least 18 years of age and possesses a valid driver's license.

(2) Evidence that the operator is 16 or 17 years of age, possesses a valid driver's license, has the legal guardian form filled out (supplied by the City), and understands that the vehicle may only be used for snow removal purposes.

(3) Proof that the owner/operator has liability insurance covering operation of ATVs and UTVs on City streets.

C. The applicant for a permit to operate an ATV or UTV on the City streets, as part of the application, shall verify that the ATV or UTV complies with State law and provisions of this chapter.

D. The operator of an ATV or UTV shall prominently display the City permit on a rear fender or similar component of the ATV or UTV.

E. All permits issued shall uniquely identify the name and address of the owner/operator of the ATV or UTV.

F. The fee for a permit to operate an ATV or UTV on the City streets or alleys shall be established by resolution of the Council.

10. Motor Vehicle Law. Persons authorized to operate ATVs or UTVs pursuant to this chapter shall obey all statutes and ordinances governing the operation of motor vehicles to the extent practically applicable.

75.06 HOURS OF OPERATION. ATVs, UTVs, and snowmobiles may be operated on City streets only from 6:00 a.m. to 10:00 p.m.

75.07 INSURANCE. Financial responsibility required. The owner/operator of every ATV, UTV, or snowmobile being operated upon the streets and alleys of the City shall have in effect liability insurance covering operation of the ATV, UTV, or snowmobile in the same limits as required of automobiles by the financial responsibility provision of Section 321A of the *Code of Iowa*.

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

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.09 ACCIDENT REPORTS. Whenever an ATV, UTV, or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 and 321I.11)

75.10 VIOLATION AND PENALTY.

1. Any person guilty of violating the provisions herein shall be guilty of a misdemeanor and shall be subject to a fine and revocation of the City permit, if applicable, for a two-month period.
2. Any person guilty of violating this chapter two times in a 12-month period shall be subject to a fine and revocation of the City permit for a period of one year.
3. Any person guilty of violating this chapter three times in a 12-month period shall be subject to fine and permanent revocation of the City permit.

[The next page is 435]

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Riding on Sidewalks
76.02 Traffic Code Applies	76.09 Towing
76.03 Double Riding Restricted	76.10 Improper Riding
76.04 Two Abreast Limit	76.11 Parking
76.05 Speed	76.12 Equipment Requirements
76.06 Emerging From Alley or Driveway	76.13 Special Penalty
76.07 Carrying Articles	

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

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

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the Traffic Code of the City applicable to the driver of a vehicle, except as to those provisions that 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 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 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])

76.06 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])

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article that prevents the rider from keeping at least one hand upon the handlebars.

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

76.08 RIDING ON SIDEWALKS. The following provisions apply to riding bicycles 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])

76.09 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.

76.10 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.

76.11 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])

76.12 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 emitting a white light visible from a distance of at least 300 feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that a red reflector on the rear, of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

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

76.13 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of this Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five days for the first offense, 10 days for a second offense, and 30 days for a third offense.

[The next page is 455]

CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Reclamation of Abandoned Vehicles

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] and Sec. 321.90)

1. "Abandoned vehicle" means any of the following:
 - A. A vehicle that has been left unattended on public property for more than 24 hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than 24 hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 10 days. However, a police authority may declare the vehicle abandoned within the 10-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. "Demolisher" means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap, or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. "Police authority" means the Iowa State Patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity,

equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.
2. Notice shall be deemed given when mailed. The notice shall include all of the following:
 - A. A description of the year, make, model, and vehicle identification number of the vehicle.
 - B. The location of the facility where the vehicle is being held.
 - C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property 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 required pursuant to this section.
 - D. A statement that 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.
 - E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.
3. 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, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.
4. 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 personal 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.

5. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property.

6. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants after the expiration of the 10-day reclaiming period.

7. If it is impossible to determine with reasonable certainty the identities 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 Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

(Code of Iowa, Sec. 321.89[3])

80.04 RECLAMATION OF ABANDONED VEHICLES. Prior to driving an abandoned vehicle away from the premises, a person who received or who is reclaiming the vehicle on behalf of a person who received notice under Section 80.03 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in *Code of Iowa* Section 321.20B.

(Code of Iowa, Sec. 321.89[3a])

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

(Code of Iowa, Sec. 321.89[3a])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 90 days, and then shall be deposited in the State Road Use Tax

Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

[The next page is 475]

CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Permit	90.15 Interior Valve
90.06 Fee for Permit	90.16 Inspection and Approval
90.07 Compliance with Plumbing Code	90.17 Completion by the City
90.08 Plumber Required	90.18 Shutting Off Water Supply
90.09 Excavations	90.19 Operation of Curb Valve and Hydrants
90.10 Tapping Mains	

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 Water Distribution Operator of the City or any duly authorized assistant, agent, or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within 60 days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT. Before any new service permit is issued, the person who makes the application shall pay a fee, as established by resolution of the Council, to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. The fee for a permit to reconnect an existing service is as established by resolution of the Council.

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions, of the *State Plumbing Code*.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances. In refilling the excavation, the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement, or other public property that is affected must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. No excavation shall be made within six feet of any laid water or sewer pipe while the ground is frozen and no water or sewer pipe shall be exposed to frost, except by special written permission of the Superintendent.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accordance with the following:

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection, and maintenance of the water service pipe shall be in accordance with the following:

1. Installation and Connection. The property owner shall be responsible for all costs and expenses of the initial installation and connection of the service pipe from the main to the building served.
2. Maintenance. After the initial installation and the connection, the property owner shall be responsible for maintenance of the service pipe from the curb valve to the building served.

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 and h])

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be 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. If a building does not have an interior shut-off valve, a shut-off valve must be installed when water is turned off at the curb valve for repairs in the building. If an interior shut-off valve is not so installed, a service fee, as established by resolution of the Council, shall be charged for turning the water off and on at the curb valve.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the

Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

(Code of Iowa, Sec. 364.12[3a and 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 485]

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 Meter Costs

91.07 Meter Repairs

91.08 Right of Entry

91.09 Meter Testing

91.10 Underground Lawn Sprinkler Systems

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS; EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 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 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 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 METER TESTING. The Superintendent or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of five percent or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than five percent of the total water bill and not for a longer period than

six months. If the meter is found to be accurate or slow or less than five percent fast, the user shall pay a testing charge as established by resolution of the Council.

91.10 UNDERGROUND LAWN SPRINKLER SYSTEMS. A separate water meter may be installed to measure water that is used on underground lawn sprinkler systems. The cost of the meter and its installation shall be at the expense of the customer. Billing for lawn sprinkler systems shall start on April 15 and end on October 15 of each year. Water used after October 15 will appear on the May billing of the following year. Water used through the underground lawn sprinkler system meter is subject to water rates only.

[The next page is 491]

CHAPTER 92

WATER RATES

92.01 Service Charges
 92.02 Rates For Service
 92.03 Rates Outside the City
 92.04 Billing for Water Service
 92.05 Service Discontinued
 92.06 Lien for Nonpayment

92.07 Lien Exemption
 92.08 Lien Notice
 92.09 Customer Deposits
 92.10 Temporary Vacancy
 92.11 Meter Rereads
 92.12 Requested Discontinuance Fee

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises, or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 1,000	\$27.60 (minimum bill)
All over 1,000	\$8.30 per 1,000 gallons

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the following rates:

1. Customer Service Charge. A customer service charge of \$5.00 per month.
2. Usage Charge. A usage charge in accordance with the following:

Gallons Used Per Month	Rate
First 1,000	\$31.30 (minimum bill)
All over 1,000	\$9.50 per 1,000 gallons

No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 and 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth day of each month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of 10 percent of the amount due shall be added to each delinquent bill.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection. An administrative fee, as established by resolution of the Council, shall be charged to the delinquent customer when the notice is processed.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Superintendent shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. If the Superintendent finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.

4. Fees. A fee, as established by resolution of the Council, shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the

City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, stormwater drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.

4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer not the owner of the premises served a deposit, as established by resolution of the Council, intended to guarantee the payment of bills for service, and the customer must fill out a residential utilities application. Homeowners must have a deposit on all homes they own, including rental properties.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

92.11 METER REREADS. There is a service charge, as established by resolution of the Council, for any meter rereads if requested by the customer.

92.12 REQUESTED DISCONTINUANCE FEE. There shall be a service fee, as established by resolution of the Council, collected for discontinuing and restoring water service for any requested discontinuance.

[The next page is 515]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Waste Water Operator of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. **Damage Sewer System.** Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. **Surface Run-Off or Groundwater.** Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. **Manholes.** Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. **Objectionable Wastes.** Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. **Septic Tanks.** Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. **Untreated Discharge.** Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 150 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(567 IAC 69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except Subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in Subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

[The next page is 523]

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 60 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. The person who makes the application shall pay a fee, as established by resolution of the Council, to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

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 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and

watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

- A. Recommended grade at one-fourth inch per foot.
- B. Minimum grade of one-eighth inch per foot.
- C. Minimum velocity of two feet per second with the sewer half full.
- D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement

floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge, and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand, or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. 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.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, 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.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

[The next page is 531]

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Stormwater

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.01 STORMWATER. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be in 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 (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150°F (65°C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

[The next page is 539]

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.

(567 IAC 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.

(567 IAC 69.1[3 and 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.

(567 IAC 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.

[The next page is 545]

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Rate

99.03 Special Rates

99.04 Private Water Systems

99.05 Payment of Bills

99.06 Lien for Nonpayment

99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system at the following rates:

1. Customer Service Charge. A customer service charge of \$11.00 per month.
2. Usage Charge. A usage charge of \$1.50 for each 1,000 gallons of water used per month.

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 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.

[The next page is 575]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited
105.08 Toxic and Hazardous Waste
105.09 Waste Storage Containers
105.10 Prohibited Practices
105.11 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(567 IAC 100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(567 IAC 20.2)
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste, and sewage treatment waste in dry or semisolid form.

(567 IAC 100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “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.

(567 IAC 20.2)

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(567 IAC 100.2)

12. “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.

(567 IAC 100.2)

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

(*Code of Iowa, Sec. 455B.301*)

14. “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.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

15. “Toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

16. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause, or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(567 IAC 23.2 and 100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(567 IAC 23.2[3]“a”)

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(567 IAC 23.2[3]“b”)

3. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(567 IAC 23.2[3]“d”)

4. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(567 IAC 23.2[3]“e”)

5. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(567 IAC 23.2[3]“g”)

6. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

(567 IAC 23.2[3]“i”)

7. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(567 IAC 23.2[3]“j”)

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(567 IAC 23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources.

(567 IAC 100.2)

(567 IAC 102.13[2] and 400 IAC 27.14[2])

105.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall

provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices. Metal bulk storage containers are not allowed at residential premises unless renovation is taking place.
 - B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.
4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

105.10 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the Fremont County Landfill Commission are hereby designated as the

official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

[The next page is 585]

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Collector's License
106.08 Unit-Based Pricing
106.09 Collection Fees
106.10 Lien for Nonpayment

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be only by collectors licensed by the City.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(567 IAC 104.9)

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the collector.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 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, 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: \$300,000.00 per person.
\$500,000.00 per occurrence.

Property Damage:..... \$150,000.00

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 10 days prior to the effective date of such action.

3. License Fee. A license fee in the amount established by resolution of the Council shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

4. License Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process, or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application, and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment, and facilities in use.

6. License Not Transferable. No license authorized by this chapter may be transferred to another person.

7. License Revocation. The Council may, by resolution, establish additional regulations necessary to protect the public health, safety and welfare which each licensee must comply with. If a licensee fails to comply with the provisions of this chapter or any additional regulations established by the Council, the Council may revoke the license. The revocation must be by written order of the Council and shall state the reasons for the revocation. The order shall be filed in the office of the Clerk and a copy shall be sent by certified mail to the licensee. The licensee may, by written request filed with the Clerk within 30 days of the revocation notice, request a hearing before the Council on all issues connected with said revocation. The hearing shall be held within 30 days of the date the request was filed unless the licensee requests a later date.

8. 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.

9. Grading or Excavation Excepted. No license or permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

106.08 UNIT-BASED PRICING. Each residential and commercial premises is limited to the collection of two 35-gallon bags or reusable containers per week. Each bag or container shall not exceed 50 pounds in weight. The collector shall charge an additional fee for each additional bag or container set out for collection.

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 for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449 [Iowa 1970])

1. City Landfill and Recycling Fees. Each residential and commercial premises shall pay a monthly landfill and recycling fee in accordance with the following:

- A. Residential Landfill Fee - \$3.00 per month per water meter.
- B. Commercial Landfill Fee - \$6.25 per month per water meter.
- C. Recycling Fee - \$1.25 per month per water meter.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.10 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

[The next page is 601]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Grant of Franchise

110.02 Term

110.03 Governing Rules and Regulations

110.04 Provision for Inadequate Energy Supplies

110.05 Construction and Maintenance of Facilities

110.06 Extension of Facilities

110.07 Relocation of Facilities

110.08 Confidential Information

110.09 Force Majeure

110.10 Hold Harmless

110.11 Successors and Assigns

110.12 No Third Party Beneficiaries

110.01 GRANT OF FRANCHISE. The City hereby grants a nonexclusive franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware corporation (hereinafter called “Grantee”), its lessees, successors, and assigns. Grantee is hereby granted the right, privilege, franchise, permission, and authority to lay, construct, install, maintain, operate, and extend in, along, over, or across the present and future streets, alleys, avenues, bridges, public rights-of-way, and public places, as are now within the present or future limits of the City, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of the City and consumers in the vicinity thereof and for the distribution of natural gas from or through the City to points beyond the limits thereof. Such facilities include (but are not limited to) all mains, services, pipes, conduits, and all other apparatus and appliances necessary or convenient for transporting, distributing, and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of the City and in carrying on such business.

110.02 TERM. The rights and privileges granted hereunder shall remain in effect for a period of 25 years from the effective date of the ordinance codified in this chapter.[†]

110.03 GOVERNING RULES AND REGULATIONS. The franchise granted hereunder is subject to all conditions, limitations, and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of the City and the rules and regulations regarding the character, quality, and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations, and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory, or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and the City shall renegotiate the terms of this chapter in accordance with the action taken, so as to allow Grantee to be made economically whole. In determining the rights and duties of the Grantee, the terms of this chapter shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the City.

110.04 PROVISION FOR INADEQUATE ENERGY SUPPLIES. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order, or decision of

[†] **EDITOR’S NOTE:** Ordinance No. 188 adopting a natural gas franchise for the City, was passed and adopted on December 8, 2008.

a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing, or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be nondiscriminatory as between communities receiving service from the Grantee.

110.05 CONSTRUCTION AND MAINTENANCE OF FACILITIES. Any pavements, sidewalks, or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of the City and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation. Grantee agrees that for the term of the franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of the City, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify the City as soon as reasonably possible. The City will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the City will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee a sufficient length of time in advance of the actual commencement of the work, considering seasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

110.06 EXTENSION OF FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of the City.

110.07 RELOCATION OF FACILITIES. If the City elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way, or public place for a public purpose, Grantee, upon reasonable notice from the City, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference and is not merely for the convenience of the City. If the City orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and is not merely for the convenience of the City or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. The City shall also provide a reasonable alternative location for Grantee's facilities. The City shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of-way until it receives the reasonable cost of relocating the same, and the City provides a reasonable alternative location for such facilities. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public

right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the City and the Grantee and pay a sum sufficient to cover the expense of moving Grantee's facilities and equipment in such location, and any damages incident thereto.

110.08 CONFIDENTIAL INFORMATION. The City acknowledges that certain information it might request from Grantee pursuant to this chapter may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under State or federal law. If Grantee requests that any information provided by Grantee to the City be kept confidential due to its proprietary or commercial value, the City and its employees, agents, and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If the City is requested or required by legal or administrative process to disclose any such proprietary or confidential information, the City shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

110.09 FORCE MAJEURE. It shall not be a breach or default under this chapter if either party fails to perform its obligations hereunder due to force majeure. Force majeure includes (but is not limited to) the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; (ii) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections, or wars; (iii) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (iv) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, this provision shall not obligate a party to settle any labor strike.

110.10 HOLD HARMLESS. Grantee, during the term of the franchise, agrees to save harmless the City from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or appliances; provided, however, Grantee need not save the City harmless from claims, demands, losses and expenses arising out of the negligence of City, its employees, or agents.

110.11 SUCCESSORS AND ASSIGNS. All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors, and assigns, subject to the terms, provisions, and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors, and assigns.

110.12 NO THIRD PARTY BENEFICIARIES. This chapter constitutes a franchise agreement between the City and Grantee. No provision of this chapter shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof or otherwise give rise to any cause of action for any person not a party hereto.

[The next page is 615]

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Grant of Franchise
111.02 State Code Restrictions and Limitations
111.03 Nonexclusive Franchise
111.04 Excavations; Trimming Trees
111.05 Relocation of Property

111.06 Restoration of Property
111.07 Indemnification
111.08 Maintenance of Facilities
111.09 Standards of Operation
111.10 Communications Services

111.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain, and operate in the City a system for the transmission and distribution of electric energy and communications signals along, under, over, and upon the streets, avenues, alleys, and public places to serve customers within and outside the City and to furnish and sell electric energy to the City and its inhabitants. For the term of the franchise the Company is granted the right of eminent domain, the exercise of which is subject to Council approval, upon application by the Company. The franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.[†]

111.02 STATE CODE RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

111.03 NONEXCLUSIVE FRANCHISE. The franchise grant is nonexclusive and shall not restrict in any manner the right of the Council or any other governing body of the City in the exercise of any regulatory power which it may now have or hereafter be authorized or permitted by the laws of the State.

111.04 EXCAVATIONS; TRIMMING TREES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures, and accessories, as well as to excavate and bury conductors for the distribution of electric energy and communications signals to support only the monitoring and usage of energy service usage in and through the City, but all said conduits and poles shall be 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. The Company is authorized and empowered to prune or remove at Company expense any trees extending into any street, alley, or public grounds to maintain electric reliability, safety, to restore utility service, and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning of trees shall be done to current nationally accepted safety and utility industry standards.

111.05 RELOCATION OF PROPERTY. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient

[†] **EDITOR’S NOTE:** Ordinance No. 182, adopting an electric franchise for the City, was passed and adopted on December 9, 2002.

operation of any such improvement. If the City has a reasonable alternative route for the street, alley, or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall consider but is not required to select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, and said other franchisee's or user's cost of relocation is less than the Company's cost of relocation, the City shall consider but is not required to select the route that requires the other franchisees or users to relocate.

111.06 RESTORATION OF PROPERTY. In making excavations in any streets, avenues, alleys, and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

111.07 INDEMNIFICATION. Company shall indemnify and save harmless City from any and all claims, suits, losses, damages, costs, or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation, or maintenance of the electric facilities authorized by the 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.

111.08 MAINTENANCE OF FACILITIES. The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

111.09 STANDARDS OF OPERATION. During the term of the franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

111.10 COMMUNICATIONS SERVICES. In the event the Company provides communications services to customers within the corporate limits of the City, the Council reserves the right to impose a franchise fee or tax, not to exceed five percent, on the net communications revenues collected from the customers located within the corporate limits of the City. Net revenue is defined as gross revenues minus any uncollectible amounts.

[The next page is 627]

CHAPTER 113

CABLE TELEVISION REGULATIONS

113.01	Definitions	113.22	Channel Capacity and Performance
113.02	Use of Property	113.23	Installation and Maintenance of Subscriber Terminals in City Hall and Schools
113.03	Taxes	113.24	Telecast of Educational Activities
113.04	Insurance	113.25	Program Alteration
113.05	Repairs	113.26	Subscriber Rates and Charges
113.06	Hold Harmless	113.27	Service Rules and Regulations
113.07	Assignment	113.28	Service Agreements
113.08	Insolvency of Grantee	113.29	Payments to City
113.09	Default of Grantee	113.30	Office of the Grantee
113.10	Termination	113.31	City Action
113.11	Compliance with Applicable Laws	113.32	Injury to Property of the Grantee
113.12	Installation and Maintenance of Property	113.33	Intercepting Signals of the Grantee
113.13	Interference	113.34	Filing of Reports
113.14	Installation of Cables	113.35	Filing of Maps and Plats
113.15	Restoration of Ground Surface	113.36	Filing of Communications with Regulatory Agencies
113.16	Alteration of Grantee	113.37	Access
113.17	Temporary Removal of Cables	113.38	Discrimination Prohibited
113.18	Tree Trimming	113.39	Other Business Activities Prohibited
113.19	Line Extensions	113.40	Arbitration
113.20	Service Requirements	113.41	Reservations
113.21	Performance Standards		

113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Cable Television System” means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. “FCC” means the Federal Communications Commission.
4. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. “Grantee” means Midwest Cablevision, Inc., a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Grantee” means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
6. “Private property” means all property, real, personal, or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.
7. “Property of the Grantee” means all property, real, personal, or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

8. "Public property" means all property, real, personal, or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

113.02 USE OF PROPERTY. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. Regulations. The Grantee shall comply with all governmental laws, ordinances, rules, or regulations as may now or hereafter be applicable thereto.
2. Prohibition. The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
 - A. Impair the owner's interest in or title thereto;
 - B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;
 - C. Adversely affect the then value or character thereof;
 - D. Cause or be likely to cause structural damage thereto, or any part thereof;
 - E. Cause or be likely to cause any damage or injury to any utility service available thereto;
 - F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;
 - G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or
 - H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

113.03 TAXES. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees, and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

113.04 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. Liability. Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury, or damage to persons or property, both real and personal, caused by the construction, erection, operation, and maintenance of any structure, equipment, or appliance. The amount of such insurance shall be not less than \$100,000.00 as to any one person, \$300,000.00 as to any one occurrence for injury or death to persons, and \$100,000.00 for damages to property, with so-called umbrella coverage of at least \$1,000,000.00.

2. Worker's Compensation. Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.
3. Automobile. Automobile Insurance with limits of not less than \$100,000.00/\$300,000.00 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000.00 covering all automotive equipment, with so-called umbrella coverage of at least \$1,000,000.00.
4. Notice of Cancellation. All of said insurance coverage shall provide a 10-day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.
5. Copies Filed. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.
6. Defense Costs. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

113.05 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

113.06 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees, and awards of every kind and nature whatsoever, including attorney's fees, costs, and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage, or injury to any property whatsoever, however arising from or related to or connected with, directly or indirectly: (i) injury to or death of any person, or loss, damage, or injury to any property of the Grantee; and/or (ii) the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations, or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise; and/or (iii) the nonobservance by the Grantee of any of the terms and conditions of the franchise; and/or (iv) the granting of the franchise.

113.07 ASSIGNMENT. Except for the purpose of obtaining financing, the Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign or transfer the franchise to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee is a general partner without the prior consent of the City.

113.08 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into the

possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within 60 days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

113.09 DEFAULT OF GRANTEE. In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within 30 days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

113.10 TERMINATION. Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

113.11 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system. Any modification to Section 76.31 of Subpart C of the regulations of the FCC applicable to the cable television system shall be incorporated into the franchise by amendment to this chapter within one year after the effective date of such modification, or at the time of renewal of the franchise, whichever occurs first. Grantee shall notify the City, in writing, of any such modification to Section 76.31 of Subpart C of the regulations of the FCC, within 90 days after such modification.

113.12 INSTALLATION AND MAINTENANCE OF PROPERTY. During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

113.13 INTERFERENCE. The Grantee's cable television system shall be so designed, engineered, and maintained so as not to interfere with radio and television reception of persons who are not subscribers of the Grantee.

113.14 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent, or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

113.15 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced.

113.16 ALTERATION OF GRADE. In the event that during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

113.17 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five-days' advance notice to arrange for such temporary cable changes.

113.18 TREE TRIMMING. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

113.19 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain, or other factors render providing service impracticable, technically infeasible, or economically non-compensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of 80 homes per linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory. The normal installation charge and monthly rate for subscribers shall not be affected by this section.

113.20 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate, and efficient cable television service to subscriber terminals.

113.21 PERFORMANCE STANDARDS. The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

113.22 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

113.23 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY HALL AND SCHOOLS. During the franchise, the Grantee shall at its sole cost, install and maintain one subscriber terminal in the existing City Hall, one in the existing high school building, and one in the existing grade school building in the City. Such subscriber terminals

shall be placed in such locations within such buildings as may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

113.24 TELECAST OF EDUCATIONAL ACTIVITIES. The Grantee shall not cablecast, tape, reproduce, or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

113.25 PROGRAM ALTERATION. Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

113.26 SUBSCRIBER RATES AND CHARGES.

1. Rates on File. A current schedule of Grantee's rates and charges in effect for installation, moving of equipment, and for basic monthly cable television service is kept on file with the City Clerk.
2. Basic Service Defined. For the purpose of this section, "basic monthly cable television service" means the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval of the City.
3. Change of Rates. Grantee shall have the right to change the rates for basic monthly cable television service, provided any increase does not exceed the increase in the Consumer Price Index for the previous 12 months as determined by the Bureau of Labor Statistics. Should Grantee wish to increase rates beyond the Consumer Price Index increase, approval shall rest with the Council. Such approval will be given only if Grantee proves that the increase will result in improved cable television service to the community or permit Grantee a fair rate of return on its investment.
4. Public Hearing. Before approving such increase, the City shall hold a public hearing thereon, and shall cause to be published for two consecutive weeks in a newspaper of general circulation in the City a public notice setting forth the proposed rates and charges and the date, time, and place of the public hearing. The second notice shall be published not less than four or more than 20 days before the date of the hearing.
5. Information Required. Before instituting an increase equal to or less than the Consumer Price Index increase, Grantee will furnish to the Council a copy of the new rates and charges, as well as information regarding Bureau of Labor Statistics figures on the Consumer Price Index. Such notification shall precede any increase by not less than 30 days and not more than 60 days.
6. Costs. The Grantee shall pay all costs and expenses incurred by the City in connection with said application and hearing.

113.27 SERVICE RULES AND REGULATIONS. The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

113.28 SERVICE AGREEMENTS. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

113.29 PAYMENTS TO CITY. The Grantee shall, during the first year of operation under this chapter, pay to the City three percent of its annual “basic monthly cable television service” revenue for the service rendered to customers located within the City. Thereafter, the fee shall become one percent as calculated above. All payments required to be made by the Grantee to the City shall be made annually and shall be due 45 days after the close of the calendar year.

113.30 OFFICE OF THE GRANTEE. During the term of the franchise, the Grantee shall maintain an office or designated agent within the City for the purpose of receiving, investigating, and responding to the complaints and grievances with respect to the quality of the service rendered by the Grantee, equipment malfunctions, and other similar matters pertaining to the cable television system of the Grantee.

113.31 CITY ACTION. Any person having a grievance or complaint may file a grievance or complaint with the Council in writing by filing the same with the Clerk. Upon receiving the written complaint, the Clerk shall give notice to the Grantee by mailing a copy of said complaint to the Grantee. The Clerk will also set the matter to be heard before the Council at its regular meeting not less than 15 days or more than 60 days after receipt of said complaint.

113.32 INJURY TO PROPERTY OF THE GRANTEE. No person shall wrongfully or unlawfully injure the property of the Grantee.

113.33 INTERCEPTING SIGNALS OF THE GRANTEE. No person shall wrongfully or unlawfully intercept the signals of the Grantee.

113.34 FILING OF REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of FCC forms required by FCC regulations.

113.35 FILING OF MAPS AND PLATS. On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

113.36 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall file with the City, copies of all petitions, applications, and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

113.37 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

113.38 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

113.39 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the

Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

113.40 ARBITRATION. Any controversy between the City and the Grantee regarding the rights, duties, and liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceedings under Section 113.10 of this chapter. Such arbitration shall be before three disinterested arbitrators, one named by the City, one named by the Grantee, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State. Grantee shall pay all costs incurred in arbitration proceedings.

113.41 RESERVATIONS. The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power.

[The next page is 655]

CHAPTER 115

CEMETERY

115.01 Definition
115.02 Cemetery Board
115.03 Cemetery Sexton
115.04 Duties of Sexton
115.05 Records
115.06 Sale of Interment Rights

115.07 Perpetual Care
115.08 Cemetery Lots Without Perpetual Care
115.09 Annual Care
115.10 Rules and Regulations
115.11 Establishment of Trust Fund

115.01 DEFINITION. The term “cemetery” means the Sidney Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 CEMETERY BOARD. A Cemetery Board of Trustees (hereinafter referred to as the “Board”) is responsible for the maintenance and operation of the municipal cemetery to provide grounds for human interments. The Board also advises the Council from time to time on the need for additional cemetery facilities.

1. Board Organization. The Board consists of three to five members who are residents of the City and Fremont County, appointed by the Mayor with the approval of the Council, for overlapping six-year terms. The Chairperson is chosen from and by the members of the Board, and the Chairperson serves in that capacity for a term of two years. Members serve without compensation, but they may receive reimbursement for their actual expenses.

2. Duties. As a part of its duties for the maintenance and operation of the cemetery, the Board oversees the cemetery properties and the hiring and discharge of personnel working on cemetery properties, subject to the limitation of expenditures for salaries and supplies, contracts, and capital outlays set forth in the annual budget provided by the Council for cemetery operations. The Board may also direct and supervise the Cemetery Sexton as needed for the maintenance and welfare of the municipal cemetery.

3. Reports. The Board shall make written reports to the Council of its activities from time to time as it deems advisable or upon Council request. Its revenues and expenditures shall be reported monthly by the Secretary of the Board to the Council in the manner of other departmental expenditures, and a copy shall be included in the Finance Officer’s report to the Council.

4. Rules. The Board has the power to make rules and regulations for the use and operations of the cemetery, subject to the approval of the rules by the Council.

115.03 CEMETERY SEXTON. The Cemetery Sexton shall operate the cemetery in accordance with the rules and regulations therefor and under the direction of the Council.

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

115.04 DUTIES OF SEXTON. The duties of the Cemetery Sexton are as follows:

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

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery;
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds, and equipment, and make a monthly report of the cemetery operation to the Council.

115.05 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.06 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

115.07 PERPETUAL CARE. The Council, by resolution, shall accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 and 523I.508)

115.08 CEMETERY LOTS WITHOUT PERPETUAL CARE. Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

115.09 ANNUAL CARE. An annual care charge as specified in the rules and regulations shall be made by the City on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The City reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

115.10 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions, and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

(Code of Iowa, Sec. 523I.304)

115.11 ESTABLISHMENT OF TRUST FUND. A perpetual trust is hereby established for the Sidney Cemetery in accordance with Chapter 523I of the *Code of Iowa*, the Iowa Cemetery Act. A restricted fund is created, to be known and designated as the "perpetual care cemetery fund," which shall be funded by the deposit of an amount equal to or greater than 20 percent of the gross selling price, or \$50.00, whichever is more, for each sale of half lot or whole within the cemetery. The fund shall be administered in accordance with the purposes and provisions of Chapter 523I of the *Code of Iowa*.

1. The perpetual care cemetery fund shall be maintained separate from all operating funds of the cemetery, and the principal of the fund shall not be reduced voluntarily except as specifically permitted by the Iowa Cemetery Act and applicable administrative regulations.
2. Trusteeship: Pursuant to Section 52131.502 of the *Code of Iowa*, the City hereby states its willingness and intention to act as the trustee for the perpetual maintenance of interment spaces in Sidney Cemetery.
3. Sale of Interment Rights: The sale of transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by the Iowa Cemetery Act, including the amount or percentage of money to be placed in the perpetual care cemetery fund.
4. Perpetual Care Registry: The Cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirement of the Iowa Cemetery Act, including the amount deposited in the perpetual care cemetery fund.

[The next page is 675]

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 and 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 and 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 that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee, and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a liquor license or retail wine or beer permit and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 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 6:00 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 6:00 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 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

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

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

[The next page is 683]

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

[The next page is 691]

CHAPTER 122
PEDDLERS, SOLICITORS, AND TRANSIENT
MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 License Exemptions
122.08 Display of License	122.17 Charitable and Nonprofit Organizations
122.09 License Not Transferable	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting, or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license. An application fee, as established by resolution of the Council, shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. A fee, as established by resolution of the Council, shall be paid to the Clerk prior to the issuance of any license.

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 9:00 a.m. and 6:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Sidney School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.17 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

[The next page is 699]

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

123.06 PERMIT FEE. A permit fee, as established by resolution of the Council, shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind, and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk, or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind, and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

[The next page is 705]

CHAPTER 124

SEXUALLY ORIENTED BUSINESSES

124.01 Purpose and Intent

124.02 Definitions

124.03 Classification

124.04 Permit and/or License Required

124.05 Issuance of Permit and/or License

124.06 Fees

124.07 Inspection

124.08 Expiration of Permit or License

124.09 Suspension

124.10 Revocation

124.11 Transfer of Permit or License

124.12 Location Restrictions

124.13 Nonconforming Uses

124.14 Additional Regulations for Adult Motels

124.15 Regulations Pertaining to Exhibition of
Sexually Explicit Films or Videos

124.16 Exemptions

124.01 PURPOSE AND INTENT. It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

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

1. “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
2. “Adult bookstore” or “adult video store” means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
 - B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or

rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

3. "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear in a state of semi-nudity; or
- B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

4. "Adult motel" means a hotel, motel, or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way that advertises the availability of these adult types of photographic reproductions; or
- B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

5. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

6. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

7. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

8. "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

9. "Establishment" means and includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

- C. The additions of any sexually oriented business to any other existing sexually oriented business; or
 - D. The relocation of any sexually oriented business.
10. “Permittee” or “licensee” means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
11. “Nude model studio” means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration.
12. “Nudity” or “state of nudity” means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast, including the areola.
13. “Semi-nude” means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portion of the body covered by supporting straps or devices.
14. “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.
15. “Sexually oriented business” means an adult arcade, adult bookstore, or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
16. “Specified anatomical areas” means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals, and/or female breasts, including the areola.
17. “Specified sexual activities” means and includes any of the following:
- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - C. Masturbation, actual or simulated; or
 - D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C above.
18. “Substantial enlargement” of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas existed on January 1, 1996.
19. “Transfer of ownership or control” of a sexually oriented business means and includes any of the following:
- A. The sale, lease, or sublease of the business;

- B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

124.03 CLASSIFICATION. Sexually oriented businesses are classified as follows:

1. Adult arcades;
2. Adult bookstores or adult video stores;
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters;
6. Adult theaters;
7. Escort agencies;
8. Nude model studios; and
9. Sexual encounter centers.

124.04 PERMIT AND/OR LICENSE REQUIRED.

1. A person commits a simple misdemeanor and/or a City infraction if said person operates a sexually oriented business without a valid permit and/or license issued by the City for the particular type of business.
2. An application for a permit and/or license must be made on a form provided by the Zoning Administrator. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
3. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the Health Department, Fire Department, and Building Official.
4. If a person who wishes to operate a sexually oriented business is an individual, said person must sign the application for a permit or license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit or license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a 10 percent or greater interest in the corporation must sign the application for a permit and/or license as applicant.
5. The fact that a person possesses other types of State or City permits and/or licenses does not exempt said person from the requirement of obtaining a sexually oriented business permit and/or license.

124.05 ISSUANCE OF PERMIT AND/OR LICENSE.

1. The City shall approve the issuance of a permit and/or license to an applicant within 30 days after receipt of an application unless the City finds one or more of the following to be true:
 - A. An applicant is under 18 years of age.
 - B. An applicant or an applicant's spouse is overdue in the payment to the City of taxes, fines, or penalties assessed against said applicant or imposed in relation to a sexually oriented business.
 - C. An applicant has failed to provide information reasonably necessary for issuance of the permit and/or license or has falsely answered a question or request for information on the application form.
 - D. An applicant is residing with a person who has been denied a permit and/or license by the City to operate a sexually oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
 - E. The premises to be used for the sexually oriented business has not been approved by the Health Department, Fire Department, and Building Official as being in compliance with applicable laws and ordinances.
 - F. The permit and/or license fee required by this chapter has not been paid.
 - G. An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.
2. The permit and/or license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit and/or license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business that it may be easily read at any time.
3. The Health Department, Fire Department, and Building Official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the Zoning Administrator. The certification shall be promptly presented to the Zoning Administrator.

124.06 FEES. The annual fee for a sexually oriented business permit and/or license is as established by resolution of the Council.

124.07 INSPECTION. An applicant or permittee or licensee shall permit representatives of the Sheriff's Department, Health Department, Fire Department, Zoning Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. A person who operates a sexually oriented business or any agent or employee of such person commits a simple misdemeanor and/or City infraction if such person refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

124.08 EXPIRATION OF PERMIT OR LICENSE.

1. Each permit and/or license shall expire one year after the date of issuance and may be renewed only by making application as provided herein. Application for

renewal should be made at least 30 days before the expiration date and when made less than 30 days before the expiration date, the expiration of the permit will not be affected.

2. When the Zoning Administrator denies renewal of a permit or license, the applicant shall not be issued a permit or license for one year from the date of denial. If, subsequent to the denial, the Zoning Administrator finds that the basis for denial of the renewal permit or license has been corrected or abated, the applicant may be granted a permit and/or license if at least 90 days has elapsed since the date the denial became final.

124.09 SUSPENSION. The Zoning Administrator shall suspend a permit and/or license for a period not to exceed 30 days if it is determined that the permittee and/or licensee or an employee of a permittee and/or licensee has:

1. Violated or is not in compliance with any section of this chapter.
2. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises.
3. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.
4. Knowingly permitted illegal gambling by any person on the sexually oriented business premises.

124.10 REVOCATION.

1. The Zoning Administrator shall revoke a permit and/or license if a cause of suspension in Section 124.09 of this chapter occurs and the permit and/or license has been suspended within the preceding 12 months.

2. The Zoning Administrator shall also revoke a permit and/or license if it is determined that:

- A. A permittee or licensee gave false or misleading information in the material submitted during the application process.
- B. A permittee or licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.
- C. A permittee or licensee or an employee has knowingly allowed prostitution on the premises.
- D. A permittee or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's or licensee's permit or license was suspended.
- E. A permittee or licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the premises.
- F. A permittee or licensee is delinquent in the payment to the City or State for any taxes or fees past due.

3. When the Zoning Administrator revokes a permit and/or license, the revocation shall continue for one year, and the permittee or licensee shall not be issued a sexually oriented business permit or license for one year from the date revocation became effective. If, subsequent to revocation, the Zoning Administrator finds that the basis

for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days has elapsed since the date the revocation became effective.

4. Appeals shall be governed by procedures set forth in the rules of procedure adopted by the City Board of Adjustment.

124.11 TRANSFER OF PERMIT OR LICENSE. A permittee or licensee shall not transfer the permit or license to another, nor shall a permittee or licensee operate a sexually oriented business under the authority of a permit or license at any place other than the address designated in the application.

124.12 LOCATION RESTRICTIONS.

1. The City will include the following uses in a C-2 Business District. The permitted principal uses and structures shall be those enumerated in Section 165.10 of this Code of Ordinances, as well as the following:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and
- I. Sexual encounter centers.

The permitted accessory uses and structures, permitted special exceptions, prohibited uses and structures, minimum lot area, minimum lot width, minimum yard requirements, maximum lot coverage by all buildings, maximum height of structures, minimum off-street parking and loading requirements, and sign regulations shall be the same as those required under the C-2 Business District classification as cited in Section 165.10 of this Code of Ordinances.

2. A person commits a simple misdemeanor and/or City infraction if said person operates or causes to be operated a sexually oriented business outside of a designated C-2 District. All sexually oriented businesses shall be located within a C-2 District.

3. A person commits a simple misdemeanor and/or City infraction if said person operates or causes to be operated a sexually oriented business within 1,000 feet of:

- A. A church;
- B. A public or private elementary or secondary school;
- C. A boundary of any residential district;
- D. A public park adjacent to any residential district; or
- E. The property line of a lot devoted to residential use.

4. A person commits a simple misdemeanor and/or City infraction if said person causes or permits the operation, establishment, substantial enlargement, or transfer of

ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

5. A person commits a simple misdemeanor and/or City infraction if said person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

6. For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district, or residential lot.

7. For purposes of Subsection 4 of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

124.13 NONCONFORMING USES.

1. Any business lawfully operating on January 1, 1996, that is in violation of Section 124.12 of this chapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

2. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit or license, of a church, public or private elementary school or secondary school, public park, residential district, or a residential lot within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit or license and does not apply when an application for a permit or license is submitted after a permit or license has expired or has been revoked.

124.14 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

1. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than 10 hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

2. A person commits a simple misdemeanor and/or a City infraction if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business permit or license, said person rents or sub-rents a sleeping room to a person and, within 10 hours from the time the room is rented, rents or sub-rents the same sleeping room again. For purposes of

this subsection, the term “rent” or “sub-rent” means the act of permitting a room to be occupied for any form of consideration.

124.15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, or other video reproduction that depicts “specified sexual activities” or “specified anatomical areas”, shall comply with the following requirements:

1. Upon application for a sexually oriented permit or license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager’s stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager’s station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit or license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer’s or architect’s blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Zoning Administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager’s station may be made without the prior approval of the Zoning Administrator.
4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager’s station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager’s station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager’s stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager’s stations. The view required in this subsection must be by direct line of sight from the manager’s station.
6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 1 of this section.
7. No viewing room may be occupied by more than one person at any time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to an illumination of not less than one foot-candle as measured at the floor level.

9. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

A person having a duty under this section commits a simple misdemeanor and/or City infraction if such person fails to fulfill that duty.

124.16 EXEMPTIONS. It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated by:

1. A proprietary school licensed by the State of Iowa or a college, junior college, or university supported entirely or partly by taxation; or
2. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure: (i) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; (ii) where, in order to participate in a class a student must enroll at least three days in advance of the class; and (iii) where no more than one nude model is on the premises at any one time.

[The next page is 745]

CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling On Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	135.14 Curb Cuts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.
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 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Fee. A permit fee, as established by resolution of the Council, shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the Business District it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.14 CURB CUTS. No person shall make any curb cut on any street without first obtaining written approval from the Council. All curb cuts shall be made in accordance with specifications adopted by resolution of the Council and shall be inspected and approved in writing by the City. If the curb cut does not meet City specifications and is not approved, the contractor or property owner must proceed immediately to correct the work so that it will meet approval.

[The next page is 753]

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.12 Awnings
136.02 Definitions	136.13 Encroaching Steps
136.03 Removal of Snow, Ice, and Accumulations	136.14 Openings and Enclosures
136.04 Property Owner's Responsibility for Maintenance	136.15 Fires or Fuel on Sidewalks
136.05 City May Order Repairs	136.16 Defacing
136.06 Sidewalk Construction Ordered	136.17 Debris on Sidewalks
136.07 Permit Required	136.18 Merchandise Display
136.08 Sidewalk Standards	136.19 Sales Stands
136.09 Barricades and Warning Lights	136.20 Sale of Property
136.10 Failure to Repair or Barricade	136.21 New Construction
136.11 Interference with Sidewalk Improvements	

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 inch or more.
 - B. Horizontal separations equal to three-fourths inch or more.
 - C. Holes or depressions equal to three-fourths inch or more and at least four inches in diameter.
 - D. Spalling over 50 percent of a single square of the sidewalk with one or more depressions equal to one-half inch or more.
 - E. Spalling over less than 50 percent of a single square of the sidewalk with one or more depressions equal to three-fourths 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 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. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER’S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken or defective sidewalks and maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City. No fee shall be required for the permit.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
 - C. Driveway areas shall be not less than six inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all

persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 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.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 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)

136.17 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])

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.19 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.

136.20 SALE OF PROPERTY. The City shall inspect any existing sidewalks prior to the sale of any property. If the City determines that the existing sidewalk is defective, the owner of the property must replace the sidewalk prior to the sale of the property.

136.21 NEW CONSTRUCTION. If any house or building is constructed on a property that does not have a sidewalk, the property owner must install a sidewalk.

[The next page is 763]

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.
(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.
(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.
(Code of Iowa, Sec. 174.15[2] and 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
86	January 4, 1943		
87	Unknown		
88	June 7, 1943		
89	May 1, 1944		
128	September 16, 1966		
129	September 11, 1967		
139	March 4, 1974		
231	July 13, 2020		
232	August 24, 2020		
233	August 24, 2020		
234	August 24, 2020		
235	August 24, 2020		

[The next page is 769]

CHAPTER 138

STREET GRADES

138.01 Purpose and Definition
138.02 Established Grades

138.03 Record Maintained

138.01 PURPOSE AND DEFINITION. This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades. As used herein, “grade” means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

138.02 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.

138.03 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR’S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

[The next page is 775]

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 Sidney, 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.

[The next page is 781]

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 Permitted Access Points
140.06 Speed Limits
140.07 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. F-77. On the Primary Road System extension improvement, Project No. F-77, Primary Road No. 275, within the City, described as follows:

From Station 468+41.5 (south City limit) northerly to Station 481+63.8 for a distance of 1,322.3 feet,

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-77, on file in the office of the Clerk.

2. Project No. FN-235W. On the Primary Road System extension improvement, Project No. FN-235W, Primary Road No. 2, within the City, described as follows:

Beginning at the intersection of Illinois Street and Filmore Street, thence east on said Filmore Street to the junction thereof with the corporate limits of the City,

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-235W, on file in the office of the Clerk.

140.05 PERMITTED ACCESS POINTS. Points of access are hereby permitted as follows:
(Code of Iowa, Sec. 306A.4)

1. Project No. FN-235W. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. FN-235W is hereby recorded as follows:

STATION	LOCATION	CURB OPENING WIDTH (FT.)	ENTRANCE WIDTH (FT.)	PURPOSE
976+57	South		54	Street
976+57	North		30	Street
976+75	North	23	23	Commercial
977+67	South	31	12.6	Commercial
978+38	South		51	Street
978+39	North		38	Street
979+23	North	117	117	Commercial
979+86	South	18	15	Alley
979+86	North	15	15	Alley
980+18	North	46	43	Commercial
980+88	North	12	11	Commercial
981+44	South	38	30	Street
981+44	North	40	30	Street
983+34	North	17	16	Alley
983+34	South	15	13	Alley
983+88	South	22	12	Residential
985+25	South	30	24	Street
985+25	North	32	24	Street
986+31	North	12	12	Residential
986+66	South	17	16	Alley
986+66	North	24	20	Residential
987+45	North	14	10	Residential
998+07	North	34	22	Joint Commercial- Residential
988+72	South	11	9	Residential
990+83	South	28	20	Street
992+27	South	12	10	Residential
992+70	South	15	10	Residential
993+15	South	12	11	Residential
993+52	North	18.5	11	Residential
993+55	South	15	10	Residential
993+80	North	12	8	Residential
994+08	South	15	10	Residential
995+15	South	26	24	Street
995+15	North	27	24	Street
996+56	North	19	19	Residential
999+74	North	28	24	Street
999+74	South	28	24	Street
1+75	South		15	Field Entrance
2+30	North	16	10	Residential
3+79	North		15	Residential
4+42	North		18	Residential
5+09	South		22	Residential
5+24	North		18	Residential
5+85	North		35	Commercial
7+00	North		38	Commercial
8+17	North		18	Residential
9+05	South		15	Residential
10+13	South		15	Residential
10+45	North		15	Residential
13+42	North		21	Residential
14+00	North		151	Commercial
14+56	South	20		Residential
16+25	South	Fillet 60	22	County Road

19+12	North	Fillet 97	30	County Road
26+76	South		15	Farm Entrance
27+44	North		44	Commercial
27+93	South		20	Farm Entrance

2. Project No. F-77. The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. F-77 is hereby recorded as follows:

STATION	LOCATION	CURB OPENING WIDTH (FT.)	ENTRANCE WIDTH (FT.)	PURPOSE
472+69.1	West		18	Residential
475+08	West		24	Residential
475+86.2	West		20	Residential
477+09	West		18	Residential
477+77	West		18	Field
479+35	East		24	Public

140.06 SPEED LIMITS. The maximum speed limits on said projects are hereby established as follows:

1. 20 MPH from Illinois Street to Ohio Street.
2. 25 MPH from Ohio Street to 125 feet east of Walnut Street.
3. 35 MPH from 125 feet east of Walnut Street to the corporate limits.

140.07 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 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 35 feet.
3. Project No. F-77. Parking of any nature is prohibited on Project No. F-77 in the following specifically designated location: U.S. 275, on both sides, from Station 468+41.5 (south City limits) northerly to Station 481+63.8.
4. Project No. FN-235W. Parking of any nature is prohibited on Project No. FN-235W in the following specifically designated location: Filmore Street, on both sides, from Indiana Street to the east corporate limits.

[The next page is 799]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF SIDNEY, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

[The next page is 807]

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 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 and 414.28)

[The next page is 815]

CHAPTER 147

PROPERTY MAINTENANCE CODE

147.01 INTERNATIONAL PROPERTY MAINTENANCE CODE. That a certain document which is on file in the office of the Clerk, being marked and designated as the *International Property Maintenance Code*, 2015 Edition, as published by the International Code Council, Inc., is hereby adopted as the Property Maintenance Code of the City for the control of buildings and structures as herein 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, if any, otherwise provided herein.

[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 two and one-half inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

[The next page is 841]

CHAPTER 151

TREES

151.01 Definition

151.02 Planting Prohibited

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 PROHIBITED. No tree shall be planted in any parking or street.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt

of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

[The next page is 875]

CHAPTER 165

ZONING REGULATIONS

165.01 Short Title	165.13 Parking and Loading Areas
165.02 Definitions	165.14 Exceptions, Modifications, Interpretations, and Special Permits
165.03 Establishment of Districts and District Boundaries	165.15 Administration and Enforcement
165.04 Application of District Regulations	165.16 Board of Adjustment
165.05 Nonconforming Uses	165.17 Duties on Matters of Appeal
165.06 General Regulations	165.18 Changes and Amendments
165.07 Agricultural District Regulations	165.19 Complaints Regarding Violations
165.08 Residential District Regulations	165.20 Schedule of Fees
165.09 Commercial District Regulations	165.21 Enforcement, Violations, and Penalties
165.10 Business District Regulations	165.22 Building Permit Time Limit
165.11 Industrial District Regulations	
165.12 Mobile Home Park District Regulations	

165.01 SHORT TITLE. This chapter shall be known and may be cited as “The City of Sidney, Iowa, Zoning Ordinance.”

165.02 DEFINITIONS. As used in this chapter, the words “used or occupied” include the words “intended, designed, or arranged to be used or occupied,” and the word “lot” includes the words “plot or parcel.” The following terms and words used herein shall be interpreted as follows.

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.
2. “Alley” means a public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.
3. “Basement” means a story having more than one-half of its height below grade. A basement is not counted as a story for the purpose of height regulations.
4. “Block” means that property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets, or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.
5. “Billboard,” as used in this chapter, includes all structures, regardless of the material used in the construction of the same, that are erected, maintained, or used for public display of posters, painted signs, wall signs (whether the structure is placed on the wall or painted on the wall itself), pictures, or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
6. “Board” means the Board of Adjustment.
7. “Boarding house” means a building other than a hotel where, for compensation, meals and lodging are provided for four or more persons.
8. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the roof of a flat roof, or to deck line or a mansard roof or to the mean height level (between eaves and ridge) for gable, hip, and gambrel roofs.

9. “Building line” means the line of the outside wall of the building or any enclosed projections thereof nearest the street.
10. “Bulk stations” means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than 12,000 gallons.
11. “Court” means an open, unobstructed, and unoccupied space other than a yard, which is bounded on two or more sides by a building on the same lot.
12. “District” means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
13. “Dwelling” means any building or portion thereof which is designated or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
14. “Dwelling, single-family” means a building designed for or occupied exclusively for residence purposes by one family.
15. “Dwelling, two-family” or “duplex” means a detached building designed or constructed to contain two families residing in individual dwelling units independently of one another, and includes duplex condominium dwellings wherein the fee title to each dwelling unit is held independently of the other.
16. “Dwelling, multiple” or “multi-family dwelling” or “apartment house” means a building designed or constructed to contain three or more families therein in individual dwelling units independent of one another, and includes multi-family condominium dwellings and apartment house condominiums wherein the fee title to each dwelling unit is held independently of the others.
17. “Family” means one or more persons living together and sharing common living, sleeping, cooking, and eating facilities within a single dwelling unit, no more than three of whom may be unrelated. The following persons are considered related for the purpose of this chapter: (i) persons related by blood, marriage, or adoption; (ii) persons residing with a family for the purpose of adoption; and (iii) persons living with a family at the direction of a court.
18. “Family home” means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel.
19. “Farm” means an area of 10 acres or more which is used for the growing of the usual farm products, such as vegetables, fruits, trees, and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term “farming” includes the operating of such an area for one or more of the above uses including the necessary accessory uses for treating or storing the produce; provided, however, the operation of such accessory uses shall be secondary to that of the normal farming activities and provided further that farming does not include the feeding of garbage or offal to swine or other animals.

20. “Fence, sight-obscuring” means a fence or a planting arranged in such a way as to obstruct vision.
21. “Garage, private” means an accessory building housing motor driven vehicles of the residents of the premises; but not more than one vehicle per family shall be used for business purposes.
22. “Garage, public” means any building or premises, other than a private garage, used for equipping, refueling, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
23. “Grade” means the average elevation of the finished ground at the exterior walls of the main building.
24. “Home occupation” means any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof and which is clearly incidental and secondary to the use of the dwelling purposes and which does not change the character thereof, and provided that no article is sold or offered for sale except such as may be produced on the premises by members of the immediate family residing on the premises. The following (but not limited to the following) are not deemed home occupations: clinics, doctor’s offices, hospitals, barber shops, beauty parlors, dress shops, real estate offices, millinery shops, tea rooms, tourist or nursing homes, animal hospitals, and kennels.
25. “Hotel” means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding house or lodging house.
26. “Junk yard” means any area where waste, discarded, or salvaged materials are brought, sold, exchanged, baled or packed, disassembled, or handled, including places or yards for storage or salvaged house-wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded, or salvaged materials as part of manufacturing operations.
27. “Lodging house” means a building where lodging or boarding is provided for compensation for five or more, but not exceeding 20 persons, not members of the family there residing.
28. “Lot,” for zoning purposes, as covered by this chapter, is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated or private street and may consist of:
 - A. A single lot of record or portion of a lot of record.
 - B. A combination of complete lots of record and portions of lots of record.
 - C. A parcel of land described by metes and bounds, provided that in no case of subdivision shall any residual lot or parcel be created which does not meet the requirements of this chapter.
29. “Lot line” means a property line bounding a lot.
30. “Lot measurements” include:
 - A. Depth. The mean horizontal distance between the front and rear lot lines.

- B. Width. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the minimum building setback line.
31. “Lot of record” means land designated as a separate and distinct parcel in a subdivision, the plat of which has been recorded in the office of the County Recorder, or a parcel of land the deed to which was recorded in the office of the Recorder prior to the adoption of the Zoning Code.
32. “Lot types” are:
- A. Corner Lot. A lot located at the intersection of two or more streets.
- B. Interior Lot. A lot other than a corner lot with only one frontage on a street other than an alley.
- C. Double-Frontage Lot. A lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two nonintersecting streets may be referred to as “through” lots.
- D. Reversed-Corner Lot. A corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
33. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons, but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A “mobile home” is not built to a mandatory building code, contains no State or federal seals, and was built before June 15, 1976.
(*Code of Iowa, Sec. 435.1*)
34. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes, manufactured homes, or modular homes (or combinations 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.
35. “Manufactured home” means a factory-built structure that is manufactured or constructed under authority of 42 U.S.C. Section 5403, and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home, as defined in this chapter, is not a manufactured home, unless it has been converted to real property as provided in Section 435.26 of the *Code of Iowa*, and shall be taxed as a site-built dwelling.
36. “Modular home” means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation; is constructed to comply with the *State Building Code* for modular factory-built structures, and must display the seal issued by the State Building Code Commission.
37. “Motel” or “motor lodge” means a building or group of attached or detached buildings containing individual sleeping or living units with separate entrances, without cooking facilities, for rental to transients.
38. “Nonconforming use” means any building or land lawfully occupied by a use at the time of passage of the Zoning Ordinance codified in this chapter (or any

amendment thereto) which does not conform after the passage of the Zoning Ordinance (or amendment thereto) with the use regulations of the district in which it is situated.

39. “Nursing home” or “convalescent home” means a building or structure having accommodations for and where care is provided for invalid, infirm, aged, convalescent, or physically disabled persons, not including insane and other mental cases, inebriate, or contagious cases.

40. “Planning Commission” or “Commission” means the Planning and Zoning Commission of the City.

41. “Permitted use” means the purpose for which land or a building or structure thereon is, under the provisions of this chapter, authorized to be occupied or maintained.

42. “Parking space” means a surfaced area, enclosed or unenclosed, of not less than 250 square feet, either within a structure or in the open, exclusive of driveway or access drives for the parking of motor vehicle.

43. “Sign, on-site” means a sign relating in its subject matter to the premises on which it is located or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

44. “Special exception use” means a reasonable use that will not impair the public health, safety, or welfare in a zone but does not conform with the character of the zone in which it is located. Certain restrictions on such a use may be imposed by the Board of Adjustment.

45. “Story” means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

46. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.

47. “Structural alterations” means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions columns, beams, or borders, beyond ordinary repairs and maintenance.

48. “Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, billboards, and poster panels.

49. “Tourist home” means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.

50. “Variance” means a relaxation of the terms of this chapter which will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

51. “Yard” means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

52. “Yard, front” means a yard extending across the full width of the lot and measured using the least distance between the front lot line and the building or any projection thereof other than the projection of the usual steps or unenclosed porches. The narrow frontage on a corner lot is considered the front lot line, regardless of where the building entrance is located.

53. “Yard, rear” means a yard extending across the full width of the lot and measured, using the least distance, between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as adjoining the street upon which the lot has its greater dimension. On both corner lots and interior lots, the rear yard is the opposite end of the lot from the front yard.

54. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building.

55. “Zoning Administrator” means the City Superintendent.

[The next page is 891]

165.03 ESTABLISHMENT OF DISTRICTS AND DISTRICT BOUNDARIES. For the purpose of this chapter, the following six classes of districts are hereby established within the City, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

1. A - Agricultural District
2. R - Residence District
3. C-1 - Commercial District
4. C-2 - Business District
5. M - Industrial District
6. MHP - Mobile Home Park District

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk under the following words:

This is to certify that this is the Official Zoning Map referred to in the Ordinance of the City of Sidney, Iowa, adopted _____.

If, in accordance with the provisions of this chapter and Chapter 414 of the *Code of Iowa*, changes are made in district boundaries on the Official Zoning Map, copies of such changes shall be filed with the Official Zoning Map promptly after the amendment has been approved by the Council. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City. Where there is uncertainty as to the boundaries of districts as shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of use, the Council may adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk, under the following words: *This is to certify that this Official Zoning Map supersedes and replaces the prior Official Zoning Map adopted as part of Ordinance No. _____ of the City of Sidney, Iowa.*

165.04 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as herein after provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
 - A. To exceed the height limit herein established;
 - B. To accommodate or house a greater number of families;
 - C. To occupy a greater percentage of lot area;

- D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; or
 - E. In any other manner be contrary to the provisions of this chapter.
3. Yards or parts of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall not be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
 4. Yards or lots existing at the time of passage of this amended and substituted Subsection 4 of this section shall not be reduced in area or dimensions below the minimum requirements set forth in this chapter, except as may be provided in Subsection 12 of Section 165.06 of this chapter. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established by this chapter for the districts in which created, except as otherwise authorized by Subsection 12 of Section 165.06 with respect to single divisions of existing lots of record.

165.05 NONCONFORMING USES.

1. **Authority to Continue.** Any building, structure, or use lawfully established and existing on the effective date of the Zoning Ordinance, which does not conform to all of the regulations of the District in which it is located, may be continued subject to the provisions of this chapter. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the Zoning Ordinance and upon which actual building construction has been diligently carried on. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.
2. **Repairs and Alterations.** Repairs and alterations may be made to a nonconforming building, provided that no structural alterations shall be made to a building which is designed or intended for a use not permitted in the district in which it is located, except that structural alterations may be made if they are required by law or are necessary to make the building and use thereof conform to the regulations of the district.
3. **Additions and Expansions.** A nonconforming building which is nonconforming as to size, height, or setbacks, or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall not be added to, expanded, or enlarged unless such addition, expansion, or enlargement conforms to all the regulations of the district in which it is located and unless the entire building thereafter conforms to all of the regulations of the district as to size. A nonconforming use of land shall not be expanded or extended beyond the area it occupies at the date of the adoption of the Zoning Ordinance.
4. **Discontinuation of a Nonconforming Building or Use.** A building, substantially all of which is designed or intended for a use which is not permitted in the district in which it is located, which is or hereafter becomes vacant and remains

unoccupied or is not used for a period of two years, shall not thereafter be occupied or used except in a manner which conforms to the use regulations of the district in which it is located. If a nonconforming use of land only is discontinued for a period of six months, such use shall not thereafter be renewed, and any subsequent use of the land shall conform to the regulations of the district in which it is located.

5. Restoration of a Damaged Nonconforming Building. A building designed or intended for a use which is not permitted in the district in which it is located, which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restorations shall exceed 60 percent of the cost of replacement of the entire building, shall not be restored unless such building and use thereof shall conform to all the regulations of the district in which it is located. If the cost of restoration of such damaged building does not exceed 60 percent of the cost of replacement of the entire building, no repairs or reconstruction shall be made unless such restoration is commenced within one year from the date of the fire or other casualty or act of God and is diligently pursued until completion.

6. Special Permit Uses. Any use for which a special exception is permitted as provided in Section 165.16 of this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use. In-home businesses will have a one-time fee of \$50.00 and a fee of \$25.00 a year on their anniversary of the permit. If a business fails to renew their application and pay the \$25.00 then the business will not be allowed to continue in the residence.

[The next page is 905]

165.06 GENERAL REGULATIONS.

1. Street Frontage Required. Lots containing any building used in whole or in part for residence purposes shall abut for at least 40 feet on at least one street or have an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street; and there shall be only one single-family dwelling for such frontage or easement.
2. Accessory Buildings and Garages.
 - A. Accessory buildings shall be erected in any yard other than a front yard as provided herein. Accessory buildings shall be distant at least two feet from all lot lines, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings, except buildings housing animals or fowl, may be erected as a part of the principal building, or may be connected thereto by a breezeway or similar structure, provided said buildings comply with all yard requirements for a principal building. An accessory building which is not a part of the main building may occupy a maximum of 30 percent of the rear yard, but shall not exceed 12 feet in height and shall be distant at least 10 feet from other separate buildings on the lot.
 - B. In the R District, a private garage is permitted in the rear yard on the same lot with a dwelling, either as a separate building or in a separate room within, or attached to the dwelling, provided that space for not more than three motor vehicles is permitted on one lot. When wholly or partially within the limits of the side yard and attached to a principal building, such garage shall be considered as a part of such principal building and shall conform to all yard and space requirements as specified in this chapter for principal buildings.
3. Corner Lots. For corner lots platted after the effective date of the Zoning Ordinance, the street side yard shall be equal in width to the setback regulation of the lots to the rear having frontage on the intersecting street. On corner lots platted and of record at the time of the effective date of the Zoning Ordinance, the side yard regulation shall apply to the longer street side of the lot except in the case of reverse frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the longer street side of the corner lot of no less than 50 percent of the setback required on the lots to the rear of such corner lot, and no accessory building on said corner lot shall project beyond the setback line of the lots in the rear; provided further, this regulation shall not be interpreted as to reduce the buildable width of the corner lot facing an intersecting street and of record or as shown by existing contract of purchase at the time of the effective date of the Zoning Ordinance to be less than 28 feet, or to prohibit the erection of an accessory building.
4. Home Occupations. Home occupations may be conducted entirely within a dwelling and carried on by the inhabitants thereof, provided that any such activity shall not occupy more than 50 percent of the floor area of one story of such building; provided further, only the proprietor and one additional person shall be regularly employed; provided further, there may be a small non-illuminated sign not exceeding two square feet in area; provided further, there is no mechanical equipment except such as is normally used for domestic or household purposes.
5. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the Planning Commission and on record in the office of the County

Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter, unless specific yard requirements in this chapter require a greater setback.

6. Front Yard Exceptions. In areas where some lots are developed with a front yard that is less than the minimum required for the district by this chapter, or where some lots have been developed with a front yard greater than required by this chapter, the following rule shall apply. The front yard depth for a principal building located on a lot within 250 feet measured along the street line from the nearest corner of the lot under consideration, to any portion of two or more lots in the same block and which lots are occupied by dwellings that front on the same street as the proposed principal dwelling, shall be the average front yard depth of such existing dwellings.

- A. Buildings located entirely on the rear half of a lot shall not be counted.
- B. Buildings shall not be required to have a front yard greater than 50 feet or less than that required in the Zoning District in which it is located.
- C. If no building exists on one side of a lot within 250 feet of the lot in question, the minimum front yard shall be the same as the building on the other side.

7. Open Space. Yards or other open space provided about any building for the purpose of complying with the provisions of this chapter shall not be considered as providing a yard or open space for any other building. The lot area per family shall not be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located.

8. Mobile Homes. Mobile homes, as defined in Section 165.02 of this chapter, shall not be used for dwelling purposes in any district, except when located within a mobile home park.

9. Lots of Record. Any lot of record on the effective date of the Zoning Ordinance which is located in any R District and which does not comply in area or minimum dimensions with the requirements of the district in which it is located may be used for a single-family structure, provided that all setback and other requirements of this chapter are complied with.

10. Visibility at Intersections. In each quadrant of every street intersection there shall be designed a vision clearance triangle, bounded by the inner street lines and a line connecting them 25 feet from their intersection. Within this triangle no site-obstructing object shall be allowed between the height of three feet and 10 feet above the elevation of the streets.

11. Fences and Walls. Fences and walls may be up to the lot or property line. Fences and walls may extend not over six feet in height above the natural grade in side yards and eight feet above the natural grade in rear yards and not over three feet in height above the natural grade in the front yard. Fences installed must have the finished side facing the neighbor's house. Any fence constructed differently will be taken down and reconstructed. See Subsection 10 of this section for corner lots.

12. Lot Area Exception for Single-Family Dwellings on Existing Lots of Record or Lots Created by Single Division of Lots of Record. A single-family dwelling may be

built on any platted lot of record containing 75 percent of the district in which the lot is located, provided:

- A. The lot was a lot of record, platted and in existence as of the effective date of the amendment to create this Subsection 12 or is a lot created as to the result of a division of a lot of record occurring after the effective date of said amendment; and
- B. The front, side, and rear lot requirements for the district in which the lot of record or lot created by division are met; and
- C. Single-family dwellings are permitted in the district in which the lot of record or lot created by division is located.

A lot of record existing on the effective date of the amendment herein referred to, which in and of itself meets the lot area requirements for single-family dwellings in the district in which situated, may be divided once into two lots, provided each of the two lots to be created meets the 75 percent requirement with respect to lot area. Construction on any lot created by such a division shall not commence or proceed until the platting requirements of Chapter 170 of this Code of Ordinances (Subdivision Regulations) have been satisfied and the plat thereof approved by the Council.

[The next page is 915]

165.07 AGRICULTURAL (A) DISTRICT REGULATIONS. In A Districts, the following regulations apply, except as otherwise provided herein:

1. Permitted Uses.
 - A. Agriculture; crop and tree farming; truck gardening.
 - B. One- and two-family dwellings, including manufactured homes, subject to the following standards:
 - (1) For all building permits issued after June 6, 1985, the principal structure shall have a floor area of not less than 640 square feet and a minimum width for any building elevation of not less than 20 feet.
 - (2) All principal structures shall be roofed in the gable or hip styles and shall include an overhang of at least 12 inches.
 - (3) All principal structures shall be sided with material other than flat or corrugated sheet metal. Siding shall extend to within six inches of the ground adjacent to the structure.
 - (4) All principal structures shall be placed on a foundation system that is provided for by Code, or is recommended by the manufacturer, and which make a dwelling permanently attached to the site.
 - C. Family homes are permitted, provided only one dwelling is contained in any one given City block.
 - D. Plant nurseries and greenhouses.
 - E. Public and private schools and education institutions of academic instruction.
 - F. Public museums, libraries, parks, playgrounds, or community centers and similar uses.
 - G. Golf courses, country clubs, tennis courts, and similar recreational uses.
 - H. Churches.
 - I. Hospitals, nursing homes, and charitable institutions (not to include penal or correctional institutions).
 - J. Nursery schools and childcare centers.
 - K. Cemeteries of 10 acres or more in size.
2. Special Exception Uses. The following special exception uses shall be permitted when authorized in accordance with Section 165.16 of this chapter:
 - A. Private playgrounds, golf courses, and recreational uses, located not less than 200 feet from an R District.
 - B. Public utility structures and equipment necessary for the operation thereof.
 - C. Private campground facilities.
 - D. Energy-promoting, energy-generating, or energy-conserving structures.

- E. Airports.
 - F. Sand, gravel, rock quarries.
 - G. Sewage treatment facilities.
 - H. Sanitary landfills in accordance with County and State regulations, except that no sanitary landfill shall be operated within 1,320 feet of any R District.
3. Accessory Uses.
- A. Home occupations. [See Definitions (Section 165.02); see also Section 165.08(3)(B) for sign regulations.]
 - B. Customary accessory uses incidental to the permitted use.
 - C. Signs, On-Site. Only one sign, not exceeding 80 square feet in area, pertaining to the lease, hire, or sale of the building or premises on which such sign is located. Outdoor identification signs or bulletin boards for hospitals, churches, and schools, and other public buildings.
 - D. Private garage, subject to Section 165.06(2).
 - E. Fences, subject to Section 165.06(10) and (11).
 - F. Roadside stands located not less than 20 feet from street right-of-way line.
4. Space Requirements.
- A. Building Height Limit: Two and one-half stories or 35 feet maximum.
 - B. Minimum Area and Yards:
 - (1) Lot: 20,000 square feet, exclusive of road right-of-way.
 - (2) Width: 100 feet.
 - (3) Front Yard Depth: 35 feet from proposed right-of-way line.
 - (4) Side Yard Width: 10 feet; 15 feet for any other principal building.
 - (5) Rear Yard Width: 35 feet; 45 feet for any other principal building.
5. Exceptions. See Section 165.14..
6. Off-Street Parking. See Section 165.13.

[The next page is 921]

165.08 RESIDENTIAL (R) DISTRICT REGULATIONS. In the R District, the following regulations apply, except as otherwise provided herein:

1. Permitted Uses:
 - A. One- and two-family dwellings, including manufactured homes, subject to the following standards:
 - (1) For all building permits issued after June 6, 1985, the principal structure shall have a floor area of not less than 640 square feet, and a minimum width for any building elevation of not less than 20 feet.
 - (2) All principal structures shall be roofed in the gable or hip styles and shall include an overhang of at least 12 inches.
 - (3) All principal structures shall be sided with material other than flat or corrugated sheet metal. Siding shall extend to within six inches of the ground adjacent to the structure.
 - (4) All principal structures shall be placed on a foundation system that is provided for by this Code of Ordinances, or is recommended by the manufacturer, and which make a dwelling permanently attached to the site.
 - B. Family homes are permitted, provided only one dwelling is contained in any one given City block.
 - C. Multi-family dwellings.
 - D. Churches and accessory buildings.
 - E. Public museums, libraries, parks, playgrounds or community centers, and similar uses.
 - F. Golf courses, country clubs, tennis courts, and similar recreational uses, provided that any such use is not operated primarily for commercial gain.
 - G. Swimming pools, public and private.
 - H. Hospitals.
 - I. Public and private schools and educational institutions of academic instruction.
 - J. Nursery schools and childcare centers.
 - K. Boarding or lodging houses, provided that there are no conspicuous advertising signs.
 - L. Governmental buildings except maintenance and storage buildings.
 - M. Clinics, sanatoriums, dispensaries, home for the aged, nursing homes, educational, religious, philanthropic, or charitable nature.
2. Special Exception Uses. The following special exception uses are permitted when authorized in accordance with Section 165.16 of this chapter:
 - A. Water reservoirs.
 - B. Telephone transmission equipment buildings.

- C. All other uses of similar character, as may be determined by the Board of Adjustment.
- D. Governmental buildings used for maintenance or storage.
- 3. Accessory Uses.
 - A. Customary accessory uses and structures incidental to the permitted principal uses.
 - B. Signs, On-Site. Only one sign, not exceeding eight square feet in area, appertaining only to the lease, hire, or sale of the building or premises on which such sign is located, and only one sign appurtenant to a home occupation or a permitted use, not exceeding two square feet in area, provided that no such sign or nameplate shall emit any flickering, flashing, or glaring light, provided that these signs shall conform to the setback line required of any principal building. Also, outdoor signs or bulletin boards for churches, schools and other public buildings not exceeding 16 square feet and not erected within 25 feet of a street line.
 - C. Private garage.
 - D. Home occupations.
 - E. Fences, subject to Section 165.06(10) and (11).
- 4. Building Heights Limits: Two and one-half stories, but not exceeding 35 feet in height; no accessory structure shall exceed one story or 12 feet in height.
- 5. Minimum Lot Area.

	One-Family	Two-Family	Multi-Family
No water or public sewer	10,000 square feet	20,000 square feet	10,000 square feet each
Water, but no sewer	10,000 square feet	10,000 square feet	6,000 square feet each
Water and sewer available	8,500 square feet	12,000 square feet	4,000 square feet each*

* Minimum three units. Add 2,000 square feet for each one- or two-family maximum occupancy unit over three, and 4,000 square feet for each three-family and above maximum occupancy unit over the first three multi-family dwelling units permitted.

6. Minimum Lot Width.

	One-Family	Two-Family	Multi-Family
No water or public sewer	100 feet	100 feet	100 feet
Water, but no sewer	80 feet	80 feet	80 feet
Water and sewer available	60 feet	75 feet	90 feet*

* Add 15 feet for each additional unit over the first three dwelling units permitted.

- 7. Minimum Front Yard Depth: 30 feet.
- 8. Minimum Side Yard Width: Eight feet on each side for a dwelling; 20 feet on each side for any other principal building. On lots of record at the time of adoption or amendment of this chapter having a width less than 60 feet, the side yards may be reduced for single-family dwellings only as follows:
 - A. Each side yard may be reduced to not less than 10 percent of the lot width.
 - B. On corner lots, only the interior side yard may be reduced below eight feet.

9. Minimum Rear Yard Depth: 35 feet for a dwelling and 45 feet for any other building.
10. Exceptions. See Section 165.14.
11. Off-Street Parking and Loading. See Section 165.13.

[The next page is 929]

165.09 COMMERCIAL (C-1) DISTRICT REGULATIONS. In the C-1 District, the following uses and regulations apply, except as may be provided in other sections of this chapter.

1. Permitted Uses.
 - A. Uses permitted in R Districts.
 - B. Any local retail business or service establishment, such as the following:
 - (1) Animal hospital or veterinary clinic
 - (2) Antique shop
 - (3) Automobile, truck, farm implement, and mobile home sales and repair
 - (4) Baby store
 - (5) Ballrooms and dance halls
 - (6) Barber shop or beauty parlor
 - (7) Bars and taverns
 - (8) Bicycle and motorcycle sales and repair
 - (9) Billboards
 - (10) Billiard parlors and pool halls
 - (11) Bookbinding
 - (12) Bowling alleys
 - (13) Candy shops
 - (14) Clothes dry cleaning
 - (15) Cocktail lounges
 - (16) Contractor's shop and warehouse
 - (17) Commercial parking lots
 - (18) Dairy store - retail
 - (19) Dance or music studio
 - (20) Drive-in eating and drinking establishment
 - (21) Drugstore
 - (22) Electric substations
 - (23) Florist shop
 - (24) Fruit and vegetable market
 - (25) Funeral homes
 - (26) Furniture store
 - (27) Garages, public
 - (28) Gasoline service stations
 - (29) Golf-driving range and miniature golf course
 - (30) Gift shop
 - (31) Grocery and delicatessen
 - (32) Hardware store
 - (33) Hobby shop
 - (34) Hotel, motel, or motor lodge
 - (35) Household appliance or equipment sales and repair
 - (36) Ice storage and distributing station of not more than five-ton capacity
 - (37) Jewelry shop
 - (38) Launderette and similar businesses
 - (39) Laundry

- (40) Lawn mower repair shop
- (41) Locker plants
- (42) Monument sales and engraving
- (43) Office building
- (44) Packaging of candy, confections, or frozen foods
- (45) Paint and wallpaper store
- (46) Photographic studios
- (47) Post Office substation
- (48) Printing or publishing business
- (49) Radio and television sales and repair
- (50) Real estate office
- (51) Restaurant, café, and soda fountain
- (52) Sheet metal shop
- (53) Shoe repair shop
- (54) Sign painting shop
- (55) Sporting goods and camping equipment
- (56) Storage warehouse
- (57) Tailor shop
- (58) Tire repair shops
- (59) Truck terminals
- (60) Variety store

C. Business or professional offices supplying commodities or performing services.

2. Special Exception Uses. The following special exception uses shall be permitted when authorized in accordance with Section 165.16:

- A. Any special exception use permitted in an R District.
- B. Automobile painting and upholstery.
- C. Business, technical, and trade schools.
- D. Caretakers' quarters.
- E. Railway passenger stations.
- F. All other uses of similar character, as may be determined by the Board of Adjustment.

3. Accessory Uses.

- A. Accessory uses as permitted in R Districts.
- B. Accessory uses and structures customarily incidental to any permitted principal uses.

4. Building Height Limit: three stories, but not exceeding 45 feet in height.

5. Minimum Lot Area: For single-family dwelling, same as in the "R" District. No requirement for any other building except where living facilities are hereafter erected or altered above stores or other commercial uses, there shall be provided a lot area of not less than 1,000 square feet per dwelling unit.

6. Minimum Lot Width: For a dwelling and any building containing any dwelling units, same as in R Districts. No requirement for any other buildings.

7. Minimum Front Yard Depth: 25 feet. When fronting on the right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, the front yard shall be measured from the proposed right-of-way line.
8. Minimum Side Yard Width: None required except as follows:
 - A. Side yards shall be required for a dwelling and any building containing any dwelling units as required in R Districts.
 - B. A side yard of not less than eight feet shall be required on that side of a lot which adjoins the R Districts.
9. Minimum Rear Yard Depth: 35 feet. For each foot that the front yard is increased over 25 feet, the rear yard may be decreased proportionately, except that where the rear yard adjoins the side lot line of a lot in the R Districts, there shall be a minimum rear yard of eight feet required adjacent to said lot line.
10. Exceptions. See Section 165.14.
11. Off-Street Parking. See Section 165.13.

[The next page is 937]

165.10 BUSINESS (C-2) DISTRICT REGULATIONS. In the C-2 District, the following uses and regulations shall apply, except as may be provided in other sections of this chapter.

1. Permitted Uses.
 - A. Any use permitted in the C-1 District.
 - B. Any retail or wholesale business and service business, including the following uses:
 - (1) Automobile body and fender repair shop
 - (2) Bakeries - wholesale and manufacturing
 - (3) Ballrooms and dance halls
 - (4) Bars and taverns
 - (5) Bicycle and motorcycle sales and repair
 - (6) Billboards
 - (7) Billiard parlors and pool halls
 - (8) Bookbinding
 - (9) Candy or confections manufacturing
 - (10) Clothes dry cleaning
 - (11) Cocktail lounges
 - (12) Contractor's shop and warehouse
 - (13) Commercial parking lots
 - (14) Electric substations
 - (15) Household equipment repair shops
 - (16) Laundry
 - (17) Lawn mower repair shop
 - (18) Locker plants
 - (19) Office building
 - (20) Monument sales and engraving
 - (21) Packaging of candy, confections, or frozen foods
 - (22) Printing or publishing business
 - (23) Repair and storage garages
 - (24) Sheet metal shop
 - (25) Sign painting shop
 - (26) Storage warehouse
 - (27) Tire repair shops
 - (28) Truck terminals
 - (29) Welding and machine shop establishments
 - (30) Wholesale establishments
2. Special Exception Uses. The following uses shall be permitted when authorized in accordance with Section 165.16.
3. Accessory Uses.
 - A. Accessory uses permitted in the C-1 District.
 - B. Accessory uses and structures customarily incidental to any permitted principal uses.
4. Space Requirements.
 - A. Building Height Limit: four stories but not exceeding 60 feet.

- B. Minimum Area and Yards:
- (1) Lot: Dwelling, same as C-1 District. No requirement for any other building.
 - (2) Width: Dwelling, same as R District. No requirement for any other building.
 - (3) Front Yard Depth: Dwelling, same as R District. No requirement for any other building unless fronting on the proposed right-of-way of a major thoroughfare shown on the Official Major Thoroughfare Plan, in which case, the building setback shall be the proposed right-of-way line.
 - (4) Minimum Side Yard Width: Dwelling, same as R District. No requirement for any other building except when adjacent to the side lot line in an "R" District, in which case, not less than 15 feet.
 - (5) Rear Yard Depth: Dwellings, same as R District. No requirement for any other building except when adjacent to the side lot line of a lot in an R District, in which case 15 feet.
5. Exceptions. See Section 165.14.
 6. Off-Street Parking and Loading. See Section 165.13.

[The next page is 943]

165.11 INDUSTRIAL (M) DISTRICT REGULATIONS. In the M District, the following regulations apply, except as otherwise provided herein.

1. Permitted Uses.
 - A. Uses permitted in the C-1 and C-2 Districts, provided that no dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.
 - B. Any of the following uses:
 - (1) Automobile assembly and major repair.
 - (2) Bag, carpet, and rug cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
 - (3) Blacksmith, welding, or other metal shop.
 - (4) Creamery bottling, ice manufacturing, and cold storage plant.
 - (5) Crematory, if located not less than 200 feet from the R District.
 - (6) Concrete mixing plants, gravel, sand, and concrete storage and sales, concrete products manufacture.
 - (7) Enameling, lacquering, or japanning.
 - (8) Foundry.
 - (9) Grain elevators, feed mixing and grinding.
 - (10) Hatcheries of all kinds.
 - (11) Inflammable liquids.
 - (12) Laboratories - experimental, film, or testing.
 - (13) Manufacture and repair of electric signs, advertising structures, and light sheet metal products, including heating and ventilating equipment.
 - (14) Manufacture of musical instruments, novelties, and molded rubber products.
 - (15) Manufacture of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
 - (16) Manufacture or assembly of electrical appliances, instruments, and devices.
 - (17) Manufacturing, compounding, assembling, or treatment of articles of merchandise from previously prepared materials such as bone or cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns, and wood.
 - (18) Manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceutical and food products

(except fish and meat products), sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils.

- (19) Mild processing and canning factories.
- (20) Sawmill, planing mill; including manufacture of wood products not involving chemical treatment; building material sales yards, lumber yard, contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors, and storage yards for vehicles of a delivery or drying service.
- (21) Truck terminal or yard, including repair.

2. Special Exception Uses. The following special exception uses shall be permitted when authorized in accordance with Section 165.16:

- (1) Acid manufacture.
- (2) Cement, lime, gypsum, or plaster of Paris manufacture.
- (3) Correctional institutions.
- (4) Distillation of bones, coal, tar, petroleum, refuse, grain, or wood.
- (5) Drilling for or removal of oil, gas, or other hydrocarbon substance.
- (6) Explosives manufacture or storage.
- (7) Fat rendering.
- (8) Fertilizer manufacture.
- (9) Garbage, offal, or dead animal reduction or dumping.
- (10) Gas manufacturer.
- (11) Glue manufacturer.
- (12) Hog ranch.
- (13) Livestock buying stations.
- (14) Mineral extraction, including sand and gravel.
- (15) Petroleum or petroleum products refining
- (16) Rubber goods manufacture.
- (17) Salvage yards, including auto wrecking and salvage, used parts sales and junk, iron or rags, storage or bailing. No portion of the front yard is to be used for the conduct of business in any manner whatsoever except for parking of customer or employee vehicles. Any premises on which such activities are carried on shall be wholly enclosed within a building or by a wooden, metal, or masonry fence or wall not less than six feet in height and so constructed that it completely obscures the view of the operations on the premises from surrounding streets or private property.
- (18) Smelting of ores.

- (19) Stockyard or slaughter of animals, except poultry or rabbits.
 - (20) Tannery.
 - (21) Any other use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration, or noise or may impose hazard to health or property.
3. Required Conditions.
 - A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed.
 - B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least 100 feet from an R District boundary, except where adjoining a railroad right-of-way.
4. Building Height Limit: Three stories but not more than 50 feet.
5. Minimum Lot Area: No minimum.
6. Minimum Lot Width: No minimum.
7. Minimum Front Yard Depth: 30 feet. When fronting on the right-of-way of a major thoroughfare the front yard shall be measured from the proposed right-of-way line.
8. Minimum Side Yard: None required except adjacent to the R District, in which case, not less than 100 feet except where adjoining a railroad right-of-way.
9. Minimum Rear Yard Depth: 40 feet, unless the rear lot line adjoins a railroad right-of-way, in which case, none is required.
10. Exceptions. See Section 165.14.
11. Off-Street Parking. See Section 165.13.

[The next page is 951]

165.12 MOBILE HOME PARK (MHP) DISTRICT REGULATIONS. The intent of the MHP District is to establish and preserve a mobile home park free from other uses except those which are both compatible with and convenient to the residents within the district.

1. Principal Permitted Uses. A building or premises shall be used only for the following purposes:
 - A. Mobile homes.
 - B. Accessory buildings and uses.
2. Minimum Requirements. The following minimum requirements shall be observed:
 - A. Area: Any parcel of land used for a trailer park shall have a total area of not less than two acres. The trailers, mobile homes, and accessory buildings shall not occupy in aggregate more than 35 percent of the total area of the land so used.
 - B. Area Requirements: All trailers, mobile structures, or accessory structures shall be located not less than 50 feet from the nearest lot line, except such lot line that is the boundary of a commercial or industrial district, in which case such minimum distance shall not be less than 20 feet.
 - C. Lot Area: Each lot so used within a trailer park shall contain not less than 3,000 square feet for each trailer or dwelling unit.
 - D. Lot Width: 30 feet.
 - E. Yard Requirements.
 - (1) The distance between the curb line of any public street or highway and the front or side of a mobile home shall not be less than 25 feet.
 - (2) Rear yard 25 feet.
 - (3) Side yard - five feet.
3. Off-Street Parking Requirements. One parking space per mobile home.
4. Permit Required for Mobile Home Park. It is unlawful for any person to begin the construction or operation of a mobile home park within the City without the owner or lessee first having obtained a permit therefor. No person shall construct, expand, remodel, or make alterations to the sanitary facilities in a mobile home park within the State of Iowa without first obtaining a permit therefor from the State Department of Health.
5. Application for Mobile Home Park Permit. An application for a permit to operate a mobile home park shall be first submitted to the Planning and Zoning Commission for its study. The Commission shall make a recommendation to the City Council, who shall consider the proposal at the first regular meeting following the recommendation of the Commission. The application shall state the name or names of the attendants to be in active charge of the mobile home park and their hours of duty, and be accompanied by a plat and other documents showing the following information:
 - A. A legal description of the mobile home park area.

- B. The area dimensions and boundaries of the mobile home park site, including elevations and all details of the water and sewage systems, locations, including the site of water and sewer lines, etc.
 - C. Location, size, and horizontal separation and type of materials used for the proposed water and sewer lines is required. A detailed typical sectional drawing is required of a water and sewer connection.
 - D. The location and termination of storm sewer and catch-basins.
 - E. The number, location, size, and designated use of all unit spaces.
 - F. The location, width, and type of surface material for roadways and walkways.
 - G. Information relating to recreational facilities.
 - H. Information relating to fire protection facilities.
 - I. Outside lighting plan.
 - J. The location of service buildings, if provided, and any other proposed structures, including storage buildings and garbage or trash collection stations.
 - K. Owner has to have a permit to construct from the Iowa State Department of Health prior to construction for public water supply, sewage, or solid waste system.
6. Permit Requirements.
- A. All mobile home parks shall be well drained. A storm sewer drainage plan shall be submitted to and approved by the City Engineer. Any storm sewers to be constructed shall be constructed in accordance with City specifications.
 - B. All roads within the park shall be hard surfaced, dust-free, and easily accessible to all mobile homes, and adequately lighted.
 - C. No greater number of mobile homes shall be allowed than there are unit spaces available.
 - D. Each water and sewer service shall be installed in compliance with all applicable codes, the City, and Iowa State Department of Health.
 - E. All gas piping and plumbing shall meet the requirements of the most recent issue of the *Uniform Plumbing Code* as adopted by the State of Iowa and the City.
 - F. For all dependent mobile home parks, facilities must be provided for bathing, washing, laundry, restroom, and garbage disposal areas.
7. Approval of Application. The Council shall consider said application and if found satisfactory shall instruct the City Clerk, upon payment of the permit fee, to issue a mobile home park permit and retain a record thereof in his/her office.
8. Mobile Home Park Permit Fee. The permit fee for a mobile home park shall be \$30.00.
9. Suspension of a Mobile Home Park Permit. Any mobile home park permit issued under this chapter shall be suspended by the City Council if the operator thereof

fails within 24 hours after notification to maintain the park in accordance with the requirements necessary to obtain a permit.

10. Inspection. Any officer of the City shall have authority to enter and inspect, at any reasonable time, any facility permitted hereunder.

11. Revocation of Permit. The conviction of any person for violation of this chapter or any other chapter of this Code of Ordinances or statutes of the State of Iowa involving moral turpitude shall automatically revoke any permit issued under the terms hereof.

[The next page is 959]

165.13 PARKING AND LOADING AREAS.

1. Off-Street Loading Spaces Required. In any C or M District, in connection with every building or part thereof hereafter erected having a gross floor area to 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt of distribution by vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building, at least one off-street loading space plus one additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area so used in excess of 10,000 square feet.

A. Each loading space shall be not less than 10 feet in width and 35 feet in length.

B. Such space may occupy all or any part of any required yard or court space.

2. Off-Street Parking Area Required. In all districts, except the C-2 District, in connection with every industrial, commercial, business, trade, institutional, recreational, or dwelling use and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule:

A. Automobile sales and service garages – 50 percent of floor area.

B. Banks, business, professional offices and clinics – 50 percent of floor area.

C. Bowling alleys - five spaces for each alley.

D. Churches and schools - one space for each eight seats in a principal auditorium; when no auditorium is involved, one space for every two employees.

E. Dance halls, assembly halls – 200 percent of floor area used for dancing or assembly.

F. Dwelling - one parking space for each family or dwelling unit.

G. Funeral homes, mortuaries - one parking space for each five seats in the principal auditorium.

H. Furniture and appliance stores, household equipment of furniture repair shops over 1,000 square feet of floor area – 50 percent of floor area.

I. Hospitals - one space for each four beds.

J. Hotels, motels, lodging houses - one space for each sleeping or living unit.

K. Manufacturing plants - one space for each three employees on the maximum working shift.

L. Restaurants, beer parlors, and night clubs over 1,000 square feet floor area - 200 percent of floor area.

M. Retail stores, super markets, etc. over 2,000 square feet floor area – 250 percent of floor area.

N. Retail stores, shops, etc. under 2,000 square feet floor area – 100 percent of floor area.

O. Sports arenas, auditoriums, other than in school - one parking space for each six seats.

- P. Theaters, assembly halls with fixed seats - one parking space for each six seats.
- Q. Wholesale establishments or warehouses - one parking space for every two employees.

In case of any building, structure, or premises not specifically mentioned herein, requirements for a use which is mentioned and to which said use is similar shall apply. Off-street parking areas may be established in any R District that immediately adjoins a C or M District, or is directly across an alley from a C or M District, provided such parking shall be accessory to and for use of one or more business or industrial establishments located in the adjoining C or M District; provided, however, such transitional use shall not extend more than 100 feet from the boundary of the less-restricted zone. Off-street parking areas shall be surfaced with Portland cement concrete or asphaltic material or shall be dust-proofed in some other manner as may be approved by the Council and shall be maintained in a dust-free condition. In residential districts one vehicle will be allowed to park in a green area, but not the City right-of-way.

165.14 EXCEPTIONS, MODIFICATIONS, INTERPRETATIONS, AND SPECIAL PERMITS.

1. Structures Permitted Above Height Limit. The building height limitations of this chapter shall be modified as follows:
 - A. Chimneys, cooling towers, fire towers, grain elevators, monuments, penthouses, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers and spires, radio or television towers, or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances.
 - B. Public, semi-public, or public service buildings, hospitals, sanatoriums, or schools, when permitted in a district, may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot, in addition to the minimum yard requirements, for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.
2. Double-Frontage Lots. Buildings on double-frontage lots extending through from street to street shall provide the required front yard on both streets.
3. Rear Yards Adjacent to Alleys. In computing the depth of a rear yard where the rear yard opens on an alley, one-half of the alley width may be included as a portion of the rear yard.
4. Other Exceptions. Every part of a required yard shall be open to the sky and unobstructed with any building or structure except for a permitted accessory building in a rear yard and except for ordinary projections not to exceed 24 inches, including roof overhang.

[The next page is 965]

165.15 ADMINISTRATION AND ENFORCEMENT.

1. General. The provisions of this chapter shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, said official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
2. Building Permits Required. Buildings or other structures shall not be erected, moved, added to, or structurally altered without a permit therefor. Building permits shall be issued in conformance with the provisions of this chapter or upon written order from the Board of Adjustment. Fees for building permits shall be as provided by City ordinance.
3. Application for Building Permit. All applications for building permits shall be accompanied by a plan showing the actual dimensions and shape of the lot to be built upon and the location and dimensions of the existing or proposed building or alteration. The application shall include existing or proposed building or alteration; existing or proposed uses of the building and land, the number of families, housekeeping units, or rental units the building is designed to accommodate, conditions existing on the lot and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.
4. Certificates of Zoning Compliance For New, Altered, or Nonconforming Uses. It is unlawful to use or occupy, or permit the use or occupancy of, any building or premises or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the Zoning Administrator, stating that the proposed use of the building or land conforms to the requirements of this chapter. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit and shall be issued within 10 days after the lawful erection or alteration of the building is completed in conformity with the provisions of this chapter. A temporary certification of zoning compliance may be issued by the Zoning Administrator for a period not exceeding six months during alterations or partial occupancy of a building pending its completion provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public. The Zoning Administrator shall maintain a record of all certificates of zoning compliance and copies shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter.
5. Construction and Use To Be As Provided In Applications, Plans, Permits, and Certificates of Zoning Compliance. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Council authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter.

[The next page is 971]

165.16 BOARD OF ADJUSTMENT.

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members. The term of office of the members of the Board and the manner of their appointment shall be as provided by Section 414.8, *Code of Iowa*.
2. Meetings. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson or, in the Chairperson's absence the acting Chairperson, may administer oaths and compel the attendance of witness. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of three members shall be necessary to constitute a quorum.
3. Appeals. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board, or bureau of the City affected by any decision of the Zoning Administrator. Such appeal shall be taken within 10 days by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after notice of appeal shall have been filed with such official, that by no reason of facts stated in the certificate a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the Zoning Administrator and on due cause shown.
4. Fee for Appeal. The fee for appeal is \$50.00.
5. Hearing Notice. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.
6. Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter.
7. Special Exceptions. The Board shall permit the following exceptions to the district regulations set forth in this chapter, subject to the requirements of this section:
 - A. To permit erection and use of a building or the use of premises or to vary the height and the regulations in any location for a public service corporation for public utility purposes or for purposes of public communication then the Board determines it is reasonably necessary for the public convenience or welfare.
 - B. To permit the extension of a use into a district where it would be otherwise prohibited in a case where a district boundary line is so located that a lot or plot is in more than one district.

C. To hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of this chapter or Chapter 55; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board unless and until:

(1) A written application for special exception is submitted indicating the section of this chapter under which the special exception is sought, and stating the grounds on which it is requested.

(2) Notice of time and place of the Board's meeting and of the purpose shall be given by the Chairperson not less than 10 days prior to the date of the meeting. The Zoning Administrator shall give written notice by mail or publication in a newspaper in the City of the meeting, to record owners of property abutting the lot or parcel of land on which the variance is requested, and shall notify record owners of any other lot or land parcel which is deemed affected by the proposed variance. Any decision by the Zoning Administrator as to the identity of persons affected by the proposed variances shall not be subject to appeal.

(3) The public hearing shall be held. Any party may appear in person or by agent or attorney.

(4) The Board shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

8. Variances. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board unless and until:

A. A written application for variance is submitted demonstrating that:

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district;

(2) Literal interpretation of the provisions of this chapter would deprive the applicant rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(3) The special conditions and circumstances do not result from the actions of the applicant;

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given in accordance with the requirements of Subparagraph (7)(C)(2) of this section.

C. The public hearing shall be held. Any party may appear in person or by agent or by attorney.

D. The Board shall make findings that the requirements of this section have been met by the applicant for a variance.

E. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance.

F. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

9. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to affect any variation in the application of this chapter.

10. Judicial Review of Decision. Any taxpayer or any officer, department, board or bureau of the City, or any persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole, or in part, specifying the grounds of the legality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

[The next page is 979]

165.17 DUTIES ON MATTERS OF APPEAL. It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law. It is further the intent of this chapter that the duties of the Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter, the Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this chapter, as provided by law.

165.18 CHANGES AND AMENDMENTS. The Council may on its own motion or on petition after public notice and hearing, as provided by law and after report by the Zoning Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established. Any owner or owners of property may present a petition, duly signed and verified, requesting an amendment, supplement or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of at least 50 percent of the area included in such proposed change and by the owners of 50 percent of the property within 300 feet thereof, and said petition shall be filed with the Commission. The Commission shall make a report to the Council within 60 days after the date of receipt of such petition. In case the proposed amendment, supplement, or change is disapproved by the Commission, or in case of a protest against any proposed amendment or change signed by the owners of 20 percent or more, either of the area of lots included in such proposed change or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths of all the member of the Council.

165.19 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the cause and basis thereof, shall be filed with the Zoning Administrator. Such official shall record properly such complaint, immediately investigate, and take action as provided by this chapter.

165.20 SCHEDULE OF FEES.

1. Building Permits. Building permit fees are \$10.00 for the first \$3,000.00 of valuation and \$1.00 for each additional \$1,000.00 of valuation. The building permit fee shall include the certificate of zoning compliance.
2. Change of Use.
 - A. Residential Use - \$2.50
 - B. Any Other Use - \$5.00

165.21 ENFORCEMENT, VIOLATIONS, AND PENALTIES. All departments, officials, and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provision of this chapter. Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other persons who

commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the same penalties for such violation.

165.22 BUILDING PERMIT TIME LIMIT. Building permit time limits will be based on the following criteria:

1. Structures or projects that cost between \$0.00 and \$10,000.00 must be finished within three months of building permit issuance.
2. Structures or projects that cost between \$10,001.00 and \$50,000.00 must be finished within six months of building permit issuance.
3. Structures or projects that cost between \$50,001.00 and above must be finished within 18 months of building permit issuance.

EDITOR’S NOTE			
The following ordinances have been adopted amending the Official Zoning Map of the City and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED

[The next page is 1001]

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Short Title	170.18 Sketch Plan Required
170.02 Jurisdiction	170.19 Presentation to Commission or Council
170.03 Purpose	170.20 Subdivision Classified
170.04 Subdivisions Within Two Miles	170.21 Plats Required
170.05 Approval of Plats of Subdivisions	170.22 Referral of Preliminary Plat
170.06 Recordation of Plat	170.23 Action by the City Engineer
170.07 Recordation of Ordinance	170.24 Action by Commission
170.08 Definitions	170.25 Action by the Council on Preliminary Plat
170.09 Divisions	170.26 Requirements of Preliminary Plat
170.10 Improvements Required	170.27 Final Plat
170.11 Inspection	170.28 Referral of Final Plat
170.12 Minimum Improvements	170.29 Requirements of the Final Plat
170.13 Completion of Improvements	170.30 Final Plat Attachments
170.14 Performance Bond	170.31 Action by the Council on Final Plat
170.15 Minimum Standards for the Design of Subdivisions	170.32 Variances
170.16 Procedures and Submission Requirements for Plats	170.33 Chain Subdividing
170.17 Pre-Application Conference	

170.01 SHORT TITLE. This chapter shall be known and may be cited as “The City of Sidney, Iowa, Division and Subdivision Control Ordinance.”

170.02 JURISDICTION. In accordance with and subject to the provisions of Chapters 354 and 355 of the *Code of Iowa*, this chapter shall govern division of all lands within the corporate limits of the City, and subdivisions and re-subdivision of all lands within the corporate limits of the City and within two miles of the corporate limits of the City.

170.03 PURPOSE. The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivision and re-subdivision of land within the jurisdictional scope of this chapter and to impose reasonable requirements for new divisions of lands within the corporate limits so that existing developments will be protected and nonconforming uses are not created, so that adequate provisions are made for public facilities and services and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan but with flexibility permitting adjustment of the general arrangement and layout of subdivisions to a wide variety of circumstances. However, a developer should utilize standards consistent with the site conditions that will assure an economically pleasant and durable neighborhood and promote the public health, safety, and general welfare of the citizens of the City and of the residents of such subdivision.

170.04 SUBDIVISIONS WITHIN TWO MILES. Subdivisions of land within two miles of the corporate limits of the City shall be subject to the standards, conditions, and procedures for review and approval prescribed by this chapter pursuant to the authority of Section 354.9 of the *Code of Iowa* and subject to the stipulation of Subsection 2 of that section.

170.05 APPROVAL OF PLATS OF SUBDIVISIONS. Final approval of subdivision plats shall not be granted by the Council unless the subdivision plats conform to Sections 354.6, 354.11, and 355.8 of the *Code of Iowa*. The Council shall, before issuing final approval of a subdivision plat, determine whether the subdivision conforms to its Comprehensive Plan and shall give consideration to the possible burden on public improvements and to a balance of interests between the proprietor, future purchasers, and the public interest when reviewing the

proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision.

170.06 RECORDATION OF PLAT. Upon approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law.

170.07 RECORDATION OF ORDINANCE. A certified copy of the ordinance codified in this chapter shall be filed with the County Recorder.

(Code of Iowa, Section 354.9)

170.08 DEFINITIONS. For the purpose of this chapter, the following words are defined and interpreted as follows.

(Code of Iowa, Sec. 354.2 and 355.1)

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
4. "Auditor's plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the Auditor.
5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
6. "Building lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.
7. "City Engineer" means the professional engineer registered in the State of Iowa designated as city engineer by the Council or other hiring authority.
8. "Commission" means the Planning and Zoning Commission.
9. "Comprehensive Plan" means the general plan for the development of the community, which may be titled Master Plan, Comprehensive Plan, or some other title, which plan has been adopted by the Council. Such Comprehensive Plan shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
10. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.
11. "Cul-de-sac" means a street having one end connecting to another street and the other end terminated by a vehicular turnaround.

12. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.
13. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.
14. "Flood hazard area" means any area subject to flooding by a one percent-probability flood, otherwise referred to as a 100 year flood or base flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.
15. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100 year flood (base flood) without cumulatively raising the waterway surface elevation more than one foot.
16. "Forty-acre aliquot part" means one-quarter of one-quarter of a section.
17. "Government lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.
18. "Improvements" means changes to land necessary to prepare it for building sites, including but not limited to grading, filling, street paving, curb paving, sidewalks, walkways, water mains, sewers, drainageways, and other public works and appurtenances.
19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
20. "Lot, corner" means a lot situated at the intersection of two streets.
21. "Lot, double frontage" means any lot that is not a corner lot that abuts two streets.
22. "Metes and bounds description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
23. "Official plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.
24. "Original parcel" means 40 acres, or part thereof, entered of record in the office of the County Recorder as a single lot or parcel on or before the effective date of the ordinance codified in this chapter.
25. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
26. "Parcel" means a part of a tract of land.
27. "Performance bond" means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City, and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.

28. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.
29. “Plat” means a map, drawing, or chart on which a subdivider’s plan for the subdivision of land is presented and which said subdivider submits for approval and intends, in final form, to record.
30. “Plats officer” means the individual assigned the duty to administer this chapter by the Council or other appointing authority.
31. “Plat of survey” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
32. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.
33. “Re-subdivision” means any subdivision of land that has previously been included in a recorded plat. In appropriate context, it may be a verb referring to the act of preparing a plat of previously subdivided land.
34. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context, the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
35. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
36. “Street, collector” means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
37. “Street, local” means a street primarily designed to provide access to abutting property.
38. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
39. “Subdivision” means the accumulative effect of dividing an original lot, tract, or parcel of land, into three or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a re-subdivision or re-platting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided. Any person not in compliance with the provisions of the subdivision definition at the time of its effective date shall not be required to comply with such provisions unless or until a new division, re-subdivision, or re-platting occurs following that effective date.
40. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and succinct name or title that is unique for the county where the land is located.
41. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.

42. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.
43. "Utilities" means systems for the distribution or collection of water, gas, electricity, waste water, and stormwater.

[The next page is 1009]

170.09 DIVISIONS. A division of a lot, tract or parcel of land within the corporate limits of the City after the effective date of the ordinance codified in this chapter shall be accomplished in accordance with and subject to the following stipulations:

1. A plat thereof and legal descriptions of the divided parcels shall be prepared in accordance with the requirements of Section 354 and 355 of the *Code of Iowa* and submitted to the Council for review as to compliance with statutory requirements and the requirements of this section.
2. No preliminary plat shall be required.
3. Divided tracts resulting therefrom shall be subject to zoning regulations of the District within which situated, including minimum lot size, front yard, rear yard, side yard, setback requirements, and all other applicable zoning and subdivision regulations.
4. No division plat shall be approved if the result of the division is to create sublots or parcels, one or both of which have structures thereon which would be in violation of zoning and subdivision regulations if constructed thereon after the division, unless the structure or structures are removed or relocated prior to the division.
5. A lot or tract which is the result of a division after the effective date of the ordinance codified in this chapter shall not again be divided without compliance with rules and regulations of this chapter applicable to approval of plats of subdivisions.
6. If the plat of the division and legal description comply with statutory requirements and the division would not be subject to disapproval under preceding Subsections 4 or 5 of this section, the Council shall approve same by resolution. If the division does not comply with the statutory requirements or with the requirements of this section, the Council shall disapprove the plat in writing, pointing out wherein the plat and descriptions do not comply with statutory requirements and/or the requirements of this section. The Council shall either approve or disapprove the plat within 60 days after its submission to the Clerk. A failure to do so shall be deemed an approval. If a subdivision and plat and all matters related to final approval of the subdivision plat conform to the standards and conditions established by this chapter and Chapters 354 and 355 of the *Code of Iowa*, the Council, by resolution, shall approve the plat and certify the resolution which shall be recorded with the plat.

(Code of Iowa, Sec. 354.8)

170.10 IMPROVEMENTS REQUIRED. The subdivider shall, at the subdivider's expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

170.11 INSPECTION. All improvements shall be inspected to ensure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

170.12 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base, as the Council may require.
3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Act Accessibility Guidelines (ADAAG).
4. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
5. Water Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City Water Department standards, procedures, and supervision.
6. Sewers.
 - A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the City Superintendent.
 - B. Where sanitary sewers are not available, other facilities, as approved by the Council and the State Department of Health must be provided for the adequate disposal of sanitary wastes.
 - C. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the City Superintendent.

170.13 COMPLETION OF IMPROVEMENTS. Before the Council shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the Superintendent shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

170.14 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one year after final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

[The next page is 1013]

170.15 MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to Existing Streets.
 - A. The arrangement, character, extent, width, grade, and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - B. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Council to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.
2. Acreage Subdivisions.
 - A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
 - B. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
 - C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Local Streets.
 - A. Local streets shall be so planned as to discourage through traffic.
 - B. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than 500 feet and shall terminate with a turnaround, having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. The right-of-way width of the straight portion of such streets shall be a minimum of 50 feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than 35 feet.
4. Frontage Streets.
 - A. Where a subdivision abuts or contains an existing or proposed arterial street, the Council may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
 - B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Council may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in

- residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
5. Half-Streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
 6. Street Geometries.
 - A. Street jogs with centerline offsets of less than 125 feet shall be avoided.
 - B. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
 - C. When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than 200 feet for minor and collector streets, and of such greater radii as the Council shall determine for special cases.
 7. Intersections.
 - A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
 - B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees.
 - C. Property lines at street intersections shall be rounded with a radius of 10 feet, or of a greater radius where the Council may deem it necessary. The Council may permit comparable cutoffs or chords in place of rounded corners.
 8. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council.
 9. Street Grades.
 - A. Street grades, wherever feasible, shall not exceed 10 percent, with due allowance for reasonable vertical curves.
 - B. No street grade shall be less than one-half of one percent.
 10. Alleys.
 - A. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
 - B. The width of an alley shall be 20 feet.
 - C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

- D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Council.
11. Blocks.
- A. No block may be more than 1,320 feet or less than 500 feet in length between the centerlines of intersecting streets, except where, in the opinion of the Council, extraordinary conditions unquestionably justify a departure from these limits.
- B. In blocks over 700 feet in length, the Council may require at or near the middle of the block a public way or easement of not less than 10 feet in width for use by pedestrians or as an easement for public utilities.
12. Lots.
- A. The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Minimum lot dimensions and sizes.
- (1) Residential lots, where not served by public sewer, shall not be less than 80 feet wide or less than 10,000 square feet in area.
- (2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (3) Corner lots for residential use shall have an extra 10 feet of width to permit appropriate building setback from and orientation to both streets.
- C. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.
- D. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet in width, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
13. Building Lines. Building lines shall be shown on all lots within the platted area. The Council may require building lines in accordance with the needs of each subdivision.
14. Easements.
- A. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 10 feet wide.
- B. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage

right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

15. Plat Markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the Council. The markers shall be of such material, size, and length as may be approved by the Council.

[The next page is 1019]

170.16 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the Council, the subdivider and owner shall submit a plat in accordance with the requirements hereinafter set forth and install improvements or provide a performance bond.

170.17 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a pre-application conference with the Clerk. The conference should be attended by the Clerk and such other City or utility representatives as is deemed desirable, and by the owner and said owner's engineer or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

170.18 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

170.19 PRESENTATION TO COMMISSION OR COUNCIL. The subdivider may present the sketch plan to the Council for review, prior to incurring significant costs preparing the preliminary or final plat.

170.20 SUBDIVISION CLASSIFIED. Any proposed subdivision or re-subdivision shall be classified as minor subdivision or a major subdivision.

1. A minor subdivision is any subdivision that contains not more than four lots fronting on an existing street, that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel.
2. A major subdivision is any subdivision that, in the opinion of the Council, does not for any reason meet the definition of a minor subdivision.

170.21 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

170.22 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer two copies of the preliminary plat to the City Engineer, two copies to the Commission, two copies to the Council, and two copies to the County Engineer if the proposed subdivision includes areas outside the City limits.

170.23 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the *Code of Iowa* and the laws and regulations of the City, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City Engineer's findings to the Commission with one copy of the plat received and to the Council with one copy of the plat received.

170.24 ACTION BY COMMISSION. After receiving the City Engineer's report, the Commission shall study the preliminary plat and other material for conformity thereof to these

regulations. The Commission shall make recommendations in writing as to approval, rejection or modifications to the plan within 30 days after the date of submission with the Clerk. If the Commission fails to submit its recommendations within the 30 days, the Council shall proceed to act upon the plat and report of the engineer as provided in Section 170.25 of this chapter.

170.25 ACTION BY THE COUNCIL ON PRELIMINARY PLAT. The Council shall upon receiving the recommendations of the Commission, and not more than 30 days thereafter, consider the report of the engineer and recommendations of the Commission, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Council does not act within 60 days of the filing of the plat with the Clerk, the preliminary plat shall be deemed approved, provided, however, that the subdivider may agree to an extension of time for a period not to exceed an additional 60 days. It shall then set forth its recommendations in writing, whether of approval, modification, or disapproval.

170.26 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the Clerk eight copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point, and date.
2. Subdivision boundary lines showing dimensions, bearing angles, and references to section, townships, and range lines or corners.
3. Present and proposed streets, alleys, and sidewalks, with their 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.
4. Proposed layout of lots showing numbers, dimensions, radii, chords, and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public, or community purposes.
7. Present and proposed easements showing locations, widths, purposes, and limitation.
8. Present and proposed utility systems including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation, and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
10. Names and addresses of the owner, subdivider, builder, and engineer or surveyor who prepared the preliminary plat, and the engineer or surveyor who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

13. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater, unless the Council waives this requirement.

170.27 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.

170.28 REFERRAL OF FINAL PLAT. The subdivider shall, within 12 months of the conditional approval of the preliminary plat by the Council, prepare and file eight copies of the final plat and other required documents with the Clerk as hereinafter set forth, and upon the subdivider's failure to do so within the time specified, the conditional approval of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Council. Upon receipt of the final plat and other required documents, the Clerk shall transmit six copies of the final plat to the Council for its recommendations and approval. Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. At its discretion, the Council may refer the final plat to the City Engineer or the Commission or both for review and comment, but such referrals shall not extend the time within which action must be taken by the Council. Two copies shall accompany each such referral.

170.29 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of Chapter 355, *Code of Iowa*, and shall be clearly and legibly drawn to a scale of not more than 100 feet to one inch with permanent ink on a reproducible tracing material. It shall show:

(Code of Iowa, Sec. 354.8 and 355.8)

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets, and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency, and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.
4. Location, type, materials, and size of all monuments and markers including all U.S., County, or other official benchmarks.
5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.
6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the *Code of Iowa* by the professional engineer or land surveyor who drew the final plat.

170.30 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.
(*Code of Iowa, Sec. 354.6[2]*)
2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.
(*Code of Iowa, Sec. 354.11[1]*)
3. A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.
(*Code of Iowa, Sec. 354.11[3]*)
4. A certificate from the County Treasurer that the subdivision land is free from taxes.
5. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.
6. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.
(*Code of Iowa, Sec. 354.11[2]*)
7. A certificate of dedication of streets and other public property.
(*Code of Iowa, Sec. 354.11[1]*)
8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
9. Resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
(*Code of Iowa, Sec. 354.11[4]*)
10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size, and grade. These should be shown on a 50-foot horizontal scale and a five-foot vertical scale with west or south at the left.
11. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk, or that the 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.
12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12 of the *Code of Iowa*.

170.31 ACTION BY THE COUNCIL ON FINAL PLAT. Upon receipt of the plat, but not more than 60 days following submission of the final plat to the Clerk, the Council shall either approve or disapprove the final plat.

(*Code of Iowa, Sec. 354.8*)

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.
3. 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 before the City shall recognize the plat as being in full force and effect.

170.32 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this chapter. Such variances and waivers may be granted only by the affirmative vote of three-fourths of the members of the Council.

170.33 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of the ordinance codified in this chapter shall be issued unless the tract has been platted in accordance with this chapter, except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the Zoning Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

(Code of Iowa, Sec. 354.8 and 354.9)

o o o o o o o o o o

INDEX TO CODE OF ORDINANCES

CHAPTER OR SECTION
NUMBER

ABANDONED BUILDINGS	145
ABANDONED OR UNATTENDED REFRIGERATORS	41.08
ABANDONED UTILITY CONNECTIONS	
On-Site Wastewater Treatment and Disposal Systems	98.07
Water Service	90.04
ABANDONED VEHICLES	80
<i>See also</i> Impounding Vehicles	70.06
<i>See also</i> State Code Traffic Regulations	62.01
ABANDONMENT OF CATS AND DOGS	55.04
ABATEMENT OF NUISANCES	50
ACCESS CONTROLLED	140
ACCESSORY BUILDINGS	165.06(2)
ACCOUNTING RECORDS	7.07
AIR POLLUTION	50.02(8)
<i>See also</i> ENVIRONMENTAL VIOLATION	3.02
AIRPORT AIR SPACE	50.02(11)
ALCOHOL	
Consumption and Intoxication	45
Liquor Licenses and Wine and Beer Permits	120
Open Containers in Motor Vehicles.....	62.01(49) and (50)
Social Host Liability	45.04
ALL-TERRAIN VEHICLES AND SNOWMOBILES	75
AMUSEMENT DEVICES	120.06
ANGLE PARKING	69.03 and 69.04
ANIMAL PROTECTION AND CONTROL	
Abandonment of Cats and Dogs	55.04
Animal Neglect	55.02
Annoyance or Disturbance	55.08
At Large Prohibited.....	55.06
Chickens Within the City Limits.....	58
Confinement of Animals Suspected of Having Rabies	55.12
Damage or Interference by Animals	55.07
Dangerous and Vicious Animals.....	55.09 and 57
Duty to Report Attacks.....	55.11
Impounding	55.13 and 55.14
Livestock.....	55.03 and 55.05
Pet Awards Prohibited.....	55.19
Pit Bulls.....	57

	CHAPTER OR SECTION NUMBER
ANIMAL PROTECTION AND CONTROL (continued)	
Rabies Vaccination.....	55.10
Tampering with a Rabies Vaccination Tag	55.20
Tampering with an Electronic Handling Device	55.21
Vicious Dogs	55.09 and 57
ANTENNA AND RADIO WIRES	41.09
APPOINTMENTS	
By Council.....	17.05
By Mayor.....	15.03
ASSAULT	40.01
ATTORNEY FOR CITY	20
ATVS, UTVS, AND SNOWMOBILES	75
AUTOMOBILE REPAIR ON PUBLIC PROPERTY	69.05(2)
AWNINGS	136.12
BARBED WIRE AND ELECTRIC FENCES	41.10
BEER, LIQUOR, AND WINE CONTROL	
<i>See ALCOHOL</i>	
BICYCLES.....	76
<i>See also</i> Clinging to Vehicles.....	62.04
<i>See also</i> State Code Traffic Regulations	62.01
BILLBOARDS.....	50.02(6) and 62.06
BOARD OF ADJUSTMENT.....	165.16
BOARDS AND COMMISSIONS	
Board of Adjustment	165.16
Library Board	21
Low Rent Housing Commission	25
Park Board.....	24
Planning and Zoning Commission	22
BONDS	
City Officials	5.02
House Movers.....	123.04
Public Bonds, Records of	18.08(3)
Streets	135.09(4)
Transient Merchants	122.06
BUDGET	
Amendments.....	7.06
Preparation	7.05
BUILDING MOVERS	123
BUILDING NUMBERING.....	150
BUILDING SEWERS AND CONNECTIONS.....	96

	CHAPTER OR SECTION NUMBER
BUILDINGS, DANGEROUS	145
BULKY RUBBISH	106.05
BURNING	
Burning on Streets and Alleys.....	135.08
Fires in Parks.....	47.03
Fires or Fuel on Sidewalks.....	136.15
Open Burning Restricted.....	105.05
Yard Waste.....	105.06
BUSINESS DISTRICT	60.02(1)
<i>See also:</i>	
Bicycles on Sidewalks.....	76.08(1)
Sidewalks.....	136.08(5)(B)
CABLE TELEVISION	
Rules and Regulations.....	113
CAMPING IN PARKS	47.06
CAR WASHING ON STREETS	135.07
CEMETERY PROVISIONS	115
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits).....	63.03
CHARTER	2
CHICKENS WITHIN CITY LIMITS	58
CIGARETTES AND TOBACCO	
Permits.....	121
Possession by Minors.....	46.02
CITY ATTORNEY	20
CITY CHARTER	2
CITY CLERK	18
CITY COUNCIL	
Appointments by.....	17.05
Compensation.....	17.06
Meetings.....	17.04 and 5.06
Number and Term.....	2.04 and 17.01
Powers and Duties.....	17.02 and 17.03
CITY ELECTIONS	6
CITY MANAGER	23
CITY OFFICERS AND EMPLOYEES	
Appointments by Council.....	17.05
Appointments by Mayor.....	15.03
Bonds.....	5.02
Cemetery Sexton.....	115.03

CHAPTER OR SECTION
NUMBER

CITY OFFICERS AND EMPLOYEES (continued)

City Attorney 20

City Clerk 18

City Council 17

City Manager 23

City Treasurer 19

Conflict of Interest 5.07

Discretionary Powers 1.13

Extension of Authority 1.07

Fire Chief 35

Gifts to 5.11

Harassment of 41.05

Indemnity of 1.04

Mayor 15

Oath of Office 5.01

Police Chief 30

Powers and Duties 5.03

Removal of an Officer’s Communication or Control Device 41.07

Removal of Appointed Officers and Employees 5.09

Resignations 5.08

Sewer Superintendent 95.03

Vacancies 5.10

Water Superintendent 90.02

CITY OPERATING PROCEDURES 5

CITY POWERS 1.03

CITY SEAL 18.13

CIVIL CITATIONS 3.04

CLINGING TO VEHICLE 62.04

CODE OF IOWA TRAFFIC REGULATIONS 62.01

CODE OF ORDINANCES

Altering 1.10

Amendments to 1.08

Catchlines and Notes 1.09

Definitions of Terms 1.02

Rules of Construction 1.06

Validity 1.11

COMPENSATION

Changes in 17.02(6)

City Attorney 20.01

City Clerk 18.01

City Manager 23

Council Members 17.06

Mayor 15.04

Mayor Pro Tem 16.04

	CHAPTER OR SECTION NUMBER
COMPENSATION (continued)	
Set by Council	17.02(6)
Treasurer	19.02
CONFLICT OF INTEREST	5.07
CONTRACT LAW ENFORCEMENT	30.11
CONTRIBUTING TO DELINQUENCY	46.03
CONTROLLED ACCESS FACILITIES.....	140
COUNCIL.....	17
COUNCIL MEETINGS	17.04
CRIMINAL MISCHIEF.....	42.02
CROSSWALKS	
Designation and Maintenance	61.02
Parking Prohibited in	69.06(1)
Pedestrians in Crosswalks	65.08
CURB CUTS.....	135.14
CURFEW	46.01
DANGEROUS BUILDINGS.....	145
DANGEROUS SUBSTANCES, DISTRIBUTING OF	41.01
DANGEROUS TOYS (THROWING AND SHOOTING)	41.12
DANGEROUS AND VICIOUS ANIMALS.....	55.09 and 57
DEFACING PROCLAMATIONS AND NOTICES	42.03
DEPOSIT FOR UTILITIES	92.09
DEPOSITS AND INVESTMENTS	7.03(2)
DESTRUCTION OF PROPERTY	42.02
DISCRETIONARY POWER OF CITY OFFICERS AND EMPLOYEES	1.13
DISORDERLY CONDUCT	40.03
DOGS	55 - 57
DRIVEWAY CULVERTS	135.13
DRUG PARAPHERNALIA	41.15
DUTCH ELM DISEASE	50.02(10)
EASEMENTS, USE OF	95.08
ELECTIONS	
Duties of Clerk	18.12
Procedures	6
ELECTRIC FRANCHISE	111

	CHAPTER OR SECTION NUMBER
ENVIRONMENTAL VIOLATIONS	3.02
EXCAVATIONS	
Sewer.....	96.04
Streets	135.09
Water	90.09
EXTENSION OF AUTHORITY	1.07
FAILURE TO DISPERSE	40.05
FALSE IDENTIFICATION INFORMATION	41.03
FALSE REPORTS	
Of Catastrophe.....	40.03(5)
To Public Safety Entities	41.02
FENCES	
Barbed Wire and Electric Fences	41.10
Blocking Public and Private Ways	50.02(5)
Zoning	165.06(11)
FIGHTING	40.03(1)
FINANCE OFFICER	7.02
FINANCES	7
FINANCIAL REPORTS	7.08
FIRE DEPARTMENT	35
FIRE HAZARD CONDITIONS	
Health and Fire Hazard.....	105.04
Storing of Flammable Junk	50.02(7)
Unsafe Buildings	145
Weeds and Brush.....	50.02(9)
FIRE SPRINKLER SYSTEMS CONNECTIONS	91.03
FIRES	
In Parks.....	47.03
On Sidewalks.....	136.15
Open Burning Restricted	105.05
FIREWORKS	41.14
FISCAL MANAGEMENT	7
FLAG, DISRESPECT OF	40.03(6)
FORM OF GOVERNMENT	2.02
FRAUD	42.05
FUNDS	7.04
FUNERAL SERVICE, DISRUPTION OF	40.03(8)
<i>See also</i> State Code Traffic Regulations	62.01

	CHAPTER OR SECTION NUMBER
GANG ACTIVITY	50.02(12)
GARAGES AND ACCESSORY BUILDINGS	165.06(2)
GARBAGE COLLECTION AND DISPOSAL	105 and 106
GAS FRANCHISE	110
GIFTS TO CITY OFFICIALS	5.11
GOLF CARTS	74
GRADES OF STREETS, ALLEYS, AND SIDEWALKS	138
HANDICAPPED PARKING	
<i>See</i> Persons with Disabilities Parking	69.07
HARASSMENT	
Of Other Persons	40.02
Of Public Officers and Employees.....	41.05
HAZARDOUS WASTE	105.08
<i>See also</i> Prohibited and Restricted Discharges to Sewer System.....	97.03 and 97.04
HEARINGS BY THE CITY COUNCIL, PROCEDURES	8
HITCHHIKING	67.02
HOUSE MOVERS	123
HOUSE NUMBERS	150
HOUSES OF ILL FAME	50.02(12)
HOUSING (LOW RENT) COMMISSION	25
IMPOUNDING	
Animals	55.13
Vehicles.....	70.06 and 80.02
INDEMNITY AGREEMENT, PERMITS, AND LICENSES	1.04
INSURANCE REQUIREMENTS	
Firefighters	35
Fireworks	41.14
House Movers	123.05
Solid Waste Collector	106.07
Street Excavations.....	135.09
INTERFERENCE WITH OFFICIAL ACTS	41.06
INTERMENT RIGHTS	115
INVESTMENTS AND DEPOSITS	7.03(2)
JUNK AND JUNK VEHICLES	51
<i>See also</i> Storing of Flammable Junk	50.02(7)
LEGAL OPINIONS	20.06
LIBRARY	21

CHAPTER OR SECTION
NUMBER

LICENSES

Collection of Solid Waste..... 106.07
 Dogs 56
 Drivers..... 62.01
 Liquor..... 120
 Peddlers, Solicitors, and Transient Merchants 122
 Sexually Oriented Businesses..... 124.04
See also Issuance of Licenses and Permits..... 18.10

See also **PERMITS**

LIQUOR LICENSES AND WINE AND BEER PERMITS..... 120

LITTERING

Debris on Sidewalks..... 136.17
 Park Regulations..... 47.04
 Placing Debris on Streets 135.03
 Solid Waste Control 105.07

LIVESTOCK..... 55.03 and 55.05

LOAD AND WEIGHT RESTRICTIONS, VEHICLES..... 66

LOITERING..... 40.04

LOW RENT HOUSING COMMISSION..... 25

MANUFACTURED AND MOBILE HOMES..... 146

See also:

Mobile Homes (Zoning Regulations)..... 165.12

MAYOR

Appointments 15.03
 Compensation..... 15.04
 Powers and Duties 15.02
 Term of Office..... 15.01
 Voting..... 15.05

See also **CITY OFFICERS AND EMPLOYEES**

MAYOR PRO TEM..... 16

MEETINGS

Council Meetings 17.04
 Procedures for Notice and Conduct of 5.06
 Publication of Minutes of Council Meetings..... 18.03

METERS, WATER..... 91

MINORS..... 46

See also:

Amusement Devices..... 120.06
 Employment for Serving of Alcohol 120.05(4)
 Persons Under Legal Age..... 45.01
 Persons Under Legal Age..... 121.07

	CHAPTER OR SECTION NUMBER
MOBILE HOMES	146
<i>See also</i> ZONING REGULATIONS	165.12
MUNICIPAL INFRACTIONS	3
<i>See also</i> MUNICIPAL INFRACTION ABATEMENT PROCEDURE	50.07
NAMING OF STREETS	139
NATURAL GAS FRANCHISE	110
NOISE	
Annoyance or Disturbance (Barking Dogs)	55.08
Disorderly Conduct	40.03(2) and 40.03(8)
Quiet Zones	62.05
Truck Parking.....	69.09
NOMINATIONS FOR ELECTIVE OFFICES	6
NUISANCE ABATEMENT PROCEDURE	50
NUMBERING OF BUILDINGS	150
OATH OF OFFICE	5.01
OFFENSIVE SMELLS AND SUBSTANCES	50.02(1) and (2)
<i>See also</i> Restricted Discharges to Sanitary Sewer System.....	97.04
OFF-ROAD MOTORCYCLES AND UTILITY VEHICLES	75
ONE-WAY TRAFFIC	68
ON-SITE WASTEWATER SYSTEMS	98
OPEN BURNING	105.05
OPEN CONTAINERS IN MOTOR VEHICLES	62.01(49) and (50)
OPEN MEETINGS	5.06
OPERATING PROCEDURES	5
PARADES REGULATED	60.08
PARK REGULATIONS	47
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits).....	63.03
PARKING REGULATIONS	
Angle Parking.....	69.03 and 69.04
Controlled Access	69.12 and 140
Illegal Purposes	69.05
No Parking Zones.....	69.08
Park Adjacent to Curb.....	69.01 and 69.02
Parking of Bicycles	76.11
Parking Limited to 30 Minutes	69.11
Parking Prohibited.....	69.06
Parking Violations.....	70.03 and 70.04
Persons With Disabilities Parking.....	69.07

CHAPTER OR SECTION
NUMBER

PARKING REGULATIONS (continued)
 Snow Emergency..... 69.10
 Supplemental Parking Regulations..... 69.13
 Truck Parking Limited 69.09

PEACE OFFICERS
 Failure to Assist..... 41.04
 Interference with..... 41.06
 Obedience to..... 60.07
 Powers and Authority under Traffic Code 60
 Qualifications 30.03
 Removal of an Officer’s Communication or Control Device..... 41.07
 Training 30.04
See also **POLICE DEPARTMENT** 30

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS 122

PEDESTRIANS 67
See also:
 Crosswalks 61.02
 State Code Traffic Regulations 62.01
 Yield to Pedestrians in Crosswalks 65.08

PENALTIES
 Abatement of Violation of Sewer Connection Requirements 96.10
 Additional Penalties – Cigarette and Tobacco Permits 121.07
 Curfew Violations 46.01(6)
 Municipal Infractions 3
 Special Penalties (Sanitary Sewer Regulations)..... 95.09
 Special Penalty (Bicycle Regulations) 76.13
 Standard Penalty for Violation of Code of Ordinances..... 1.14
 Traffic Code Violations..... 70

PERMITS
 ATVs and UTVs..... 75.05(9)
 Beer and Wine 120
 Building 165.15(2)
 Cigarette and Tobacco..... 121.02
 Fireworks..... 41.14
 Golf Carts 74.03(10)
 House Mover 123.02
 In-Home Businesses 165.05(6)
 Mobile Home Park 165.12(4)
 On-Site Wastewater System 98.04
 Parade 60.08(1)
 Persons with Disabilities Parking..... 69.07
 Sewer Connection..... 96.01
 Sexually Oriented Businesses..... 124.04
 Sidewalks 136.07
 Street Excavation..... 135.09(1)

	CHAPTER OR SECTION NUMBER
PERMITS (continued)	
Vehicles, Excess Size and Weight	66.02
Vending Machines and Sales Stands on Sidewalks	136.19
Water System Connection.....	90.05
<i>See also</i> Issuance of Licenses and Permits.....	18.10
<i>See also</i> LICENSES	
PERSONAL INJURIES	1.05
PET AWARDS PROHIBITED	55.19
PIT BULLS	57
PLANNING AND ZONING COMMISSION	22
PLAY STREETS	62.02
<i>See also</i> Playing in Streets	135.04
POLICE DEPARTMENT	30
POLLUTION	
Air Pollution.....	50.02(8)
Environmental Violations	3.02
Incinerators Required.....	105.10
Open Burning Restricted.....	105.05
Prohibited Discharges to Public Sewer	97.03
Restricted Discharges to Sewer System	97.04
Toxic and Hazardous Wastes	105.08
Water Pollution	50.02(4)
POWERS AND DUTIES	
Cemetery Sexton	115.04
City Clerk.....	18.02
City Council	17.02 and 17.03
City Manager.....	23
City Officers Generally	2.03
Fire Chief	35.07
Mayor	15.02
Mayor Pro Tem	16.02
Municipal Officers	5.03
Police Chief.....	30.07
PRIVATE PROPERTY	42
PRIVATE WATER SYSTEMS (SEWER CHARGES)	99.04
PROCEDURE FOR HEARINGS BY THE CITY COUNCIL	8
PROPERTY MAINTENANCE CODE	147

CHAPTER OR SECTION
NUMBER

PUBLIC AND PRIVATE PROPERTY

Criminal Mischief..... 42.02
 Damage to Sewer System..... 95.04(1)
 Defacing Proclamations or Notices 42.03
 Fraud..... 42.05
 Injury to Library Books or Property 21.10
 Littering Prohibited 105.07
 Park Regulations..... 47
 Public and Private Property 42
 Sidewalk Regulations 136
 Street Excavations 135
 Theft 42.06
 Trees and Shrubs on Public Property 151
 Trespassing..... 42.01
 Unauthorized Entry 42.04

PUBLIC HEALTH AND SAFETY 41

PUBLIC NOTICES 18.05(1)

PUBLIC OFFENSES

Drug Paraphernalia..... 41.15
 Littering Prohibited 105.07
 Public and Private Property 42
 Public Health and Safety 41
 Public Peace 40

See also **SIDEWALK REGULATIONS** 136

See also **STREET EXCAVATIONS**..... 135

PUBLICATION REQUIREMENTS 18.05

RABIES VACCINATION 55.10

RECORDS

Accounting 7.07
 Fire Department..... 35.07(12)
 Maintenance by Clerk 18.08
 Minutes of Council Meetings 5.06(3)
 Public Records, Access to 5.04
 Transfer to Successors..... 5.05
 Zoning Compliance 165.15(4)

REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES 5.09

RESIGNATION OF ELECTED OFFICERS 5.08

RIGHT TO ENTER

Fire Chief..... 35.07(9)
 General Provisions 1.15
 Sewer Service Inspection and Sampling 95.07
 Solid Waste Collection..... 106.06
 Use of Easements 95.08

	CHAPTER OR SECTION NUMBER
RIGHT TO ENTER (continued)	
Warrants	1.12
Water Meter Service	91.08
SANITARY SEWER SYSTEM	
Building Sewers and Connection Requirements	96
General Provisions	95
On-Site Wastewater Systems	98
Sewer Service Charges.....	99
Use of Public Sewers	97
SEXUALLY ORIENTED BUSINESSES.....	124
SEWER RATES	99
SIDEWALKS	
Barricades and Warning Lights.....	136.09
Bicycles on Sidewalks.....	76.08
Construction Standards	136.08
Debris on	136.17
Defacing	136.16
Encroaching Steps.....	136.13
Fires and Fuel on.....	136.15
Interference with Improvements	136.11
Maintenance	136
Openings and Enclosures	136.14
Parking Prohibited on Sidewalks	69.06(4)
Sales Stands and Merchandise Displays	136.18 and 136.19
Snow Removal	136.03
Use by Pedestrians	67.04
Vehicles Crossing Sidewalks	65.06
Vehicles on Sidewalks	62.03
SKATES, COASTERS AND TOY VEHICLES	
Clinging to Vehicle	62.04
SNOW EMERGENCY	69.10
SNOW REMOVAL	
From Sidewalks.....	136.03
From Streets	135.12
Parking	69.10
SNOWMOBILES, ATVS, and UTVS	75
SOLICITORS, PEDDLERS, AND TRANSIENT MERCHANTS	122
SOLID WASTE CONTROL	
Collection	106
General Provisions	105
<i>See also</i> Restricted Discharges to Sewer System.....	97.04
SPEED REGULATIONS	63
<i>See also</i> CONTROLLED ACCESS FACILITIES	140.07

	CHAPTER OR SECTION NUMBER
STATE CODE TRAFFIC REGULATIONS	62.01
STOP OR YIELD REQUIRED	65
STORMWATER	
Discharge to Sanitary Sewer Prohibited.....	95.04(2) and 97.01
Surface Water Exception.....	97.02
STREET NAME MAP	139.04 and 139.05
STREETS AND ALLEYS	
Billboards and Signs Obstructing View	50.02(6)
Blocking Public and Private Ways	50.02(5)
Excavations and Maintenance	135
Grades.....	138
Naming	139
Obstructing Use of Streets.....	40.03(7)
Vacation and Disposal.....	137
<i>See also</i> TRAFFIC CODE	
SUBDIVISION REGULATIONS	170
TERMS OF OFFICE	
City Manager.....	23.01
Clerk	18.01
Council	2.04 and 17.01
Mayor	2.05 and 15.01
Treasurer.....	19.01
THEFT	
Library Property	21.11
Public and Private Property	42.06
TOBACCO PERMITS	121
TOXIC AND HAZARDOUS WASTE	105.08
TRAFFIC CODE	
Administration of	60
Enforcement Procedures.....	70
General Regulations	62
Load and Weight Restrictions	66
One-Way Traffic	68
Parking Regulations	69
Pedestrians.....	67
Speed Regulations	63
Stop or Yield Required.....	65
Traffic Control Devices.....	61
Turning Regulations	64
TRAFFIC CONTROL DEVICES	
Installation; Standards; Compliance.....	61
Traveling on Barricaded Street or Alley	135.05

	CHAPTER OR SECTION NUMBER
TRAFFIC REGULATIONS	62.01
TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS	122
TREASURER	19
TREES	
Disease Control.....	151.05
Dutch Elm Disease.....	50.02(10)
Duty to Trim Trees.....	151.03
Inspection and Removal of.....	151.06
Maintenance of Parking or Terrace.....	135.10
Obstructing View at Intersections.....	62.06
Open Burning Restrictions.....	105.05
Planting Restrictions.....	151.02
Trimming Trees to be Supervised.....	151.04
Yard Waste.....	105.06
TRESPASSING	42.01
TRUCK PARKING LIMITED	69.09
TRUCK ROUTES	66.04
TURNING REGULATIONS	64
UNAUTHORIZED ENTRY	42.04
URINATING AND DEFECATING IN PUBLIC	41.13
UTILITIES	
Cable Television Regulations.....	113
Electric.....	111
Natural Gas.....	110
Sewer Service System.....	95 - 99
Water Service System.....	90 - 92
U-TURNS	64.02
UTVS, ATVS, AND SNOWMOBILES	75
VACANCIES IN OFFICE	5.10
VACATING STREETS OR ALLEYS	137
VETO	
Council May Override.....	17.03
Mayor's Authority.....	15.02(4)
VICIOUS DOGS	55.09 and 57
VIOLATIONS	
Cigarette and Tobacco Violations (Sale to Minors).....	121.07
Environmental.....	3.02
Municipal Infractions.....	3
Parking.....	70

	CHAPTER OR SECTION NUMBER
VIOLATIONS (continued)	
Special Penalties for Violation of Sanitary Sewer Regulations	95.09
Standard Penalty for Violation of Code of Ordinances	1.14
Traffic	62.01
Zoning	165.21
WARRANTS	1.12
WASTE STORAGE CONTAINERS	105.09
WASTEWATER SYSTEMS, ON-SITE	98
WATER POLLUTION	50.02(4)
WATER SERVICE SYSTEM	
Connections; General Regulations	90
Meters	91
Rates	92
WEAPONS	
Discharging Weapons in City Limits	41.11
Taking Weapons During Arrest	30.10
Throwing and Shooting	41.12
WEEDS AND BRUSH	50.02(9)
WINE	
<i>See</i> ALCOHOL	
YARD REQUIREMENTS	165.06
<i>See</i> ZONING	165
YARD WASTE	105.06
YIELD REQUIRED	65
ZONING REGULATIONS	165
<i>See also</i> SUBDIVISION REGULATIONS	170

APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SIDNEY, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF _____ STREET

BE IT ENACTED by the City Council of the City of Sidney, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Sidney, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. _____ Street, on the ____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SIDNEY, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Sidney, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Sidney, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.____ on the ____ day of _____, 20____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SIDNEY, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Sidney, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Sidney, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$_____ dollars per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO SIDNEY, IOWA

Be It Enacted by the City Council of the City of Sidney, Iowa:

SECTION 1. The (location or legal description of street or alley) to Sidney, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 ____, and approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 ____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Sidney, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Sidney, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Sidney, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Sidney, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Sidney, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ___ day of _____, 20___.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Sidney, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Sidney, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
 (Name)

 (Street Address)
 _____, Iowa

You are hereby notified that the City Council of Sidney, Iowa, will meet on the ____ day of _____, 20__, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Sidney, Iowa

By: _____, _____
 (Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Sidney, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on

_____, (Name of Property Owner)

through _____, Agent, (Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____ within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____.

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20__.

Mayor

ATTEST:

City Clerk