

CODE OF ORDINANCES

OF THE

CITY OF

LONE TREE, 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

Adopted March 2, 2020, by Ordinance No. 2020-1

[illegible]

CODE OF ORDINANCES

CITY OF LONE TREE, 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 - URBAN RENEWAL.....	45
CHAPTER 9 - URBAN REVITALIZATION	47

ADMINISTRATION, BOARDS AND COMMISSIONS

CHAPTER 15 - MAYOR.....	71
CHAPTER 16 - MAYOR PRO TEM.....	73
CHAPTER 17 - CITY COUNCIL.....	75
CHAPTER 18 - CITY CLERK	81
CHAPTER 19 - CITY TREASURER	85
CHAPTER 20 - CITY ATTORNEY	87
CHAPTER 21 - PLANNING AND ZONING COMMISSION.....	89
CHAPTER 22 - PARK COMMISSION	95
CHAPTER 23 - CITY ENGINEER	97

TABLE OF CONTENTS

POLICE, FIRE AND EMERGENCIES

CHAPTER 30 - CONTRACT LAW ENFORCEMENT	121
CHAPTER 35 - FIRE PROTECTION	127
CHAPTER 36 - HAZARDOUS SUBSTANCE SPILLS	129

PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	151
CHAPTER 41 - PUBLIC HEALTH AND SAFETY	157
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY	163
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	175
CHAPTER 46 - MINORS.....	177
CHAPTER 47 - PARK REGULATIONS.....	181

NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	201
CHAPTER 51 - JUNK AND JUNK VEHICLES	205
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL	215
CHAPTER 56 - DOG LICENSE REQUIRED	223
CHAPTER 57 - DANGEROUS AND VICIOUS ANIMALS	229

TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE	251
CHAPTER 61 - TRAFFIC CONTROL DEVICES.....	255
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....	257
CHAPTER 63 - SPEED REGULATIONS	263
CHAPTER 64 - TURNING REGULATIONS	265
CHAPTER 65 - STOP OR YIELD REQUIRED	267
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS	269

TABLE OF CONTENTS

TRAFFIC AND VEHICLES (continued)

CHAPTER 67 - PEDESTRIANS.....	271
CHAPTER 68 - ONE-WAY TRAFFIC	273
CHAPTER 69 - PARKING REGULATIONS	275
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES.....	291
CHAPTER 75 - SNOWMOBILES.....	305
CHAPTER 76 - UTV AND GOLF CART REGULATIONS.....	309
CHAPTER 77 - ATV REGULATIONS.....	313
CHAPTER 80 - ABANDONED VEHICLES	325

WATER

CHAPTER 90 - WATER SERVICE SYSTEM	341
CHAPTER 91 - WATER METERS.....	349
CHAPTER 92 - WATER RATES	351
CHAPTER 93 - WATER WELLS	357

SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM.....	367
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	371
CHAPTER 97 - USE OF PUBLIC SEWERS.....	375
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS	379
CHAPTER 99 - SEWER USE CHARGE.....	381

GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL.....	401
CHAPTER 106 - COLLECTION OF SOLID WASTE	411

TABLE OF CONTENTS

FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE	421
CHAPTER 115 - CEMETERY	445

REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS	465
CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....	469
CHAPTER 122 - PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.....	473
CHAPTER 123 - HOUSE MOVERS	477
CHAPTER 124 - JUNK DEALERS AND PAWNBROKERS.....	485
CHAPTER 126 - SEXUALLY ORIENTED BUSINESSES	495

STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE.....	525
CHAPTER 136 - SIDEWALK REGULATIONS	531
CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....	539
CHAPTER 138 - STREET GRADES	541
CHAPTER 139 - NAMING OF STREETS.....	543

BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - DANGEROUS BUILDINGS.....	565
CHAPTER 146 - WATER WELL PROTECTION.....	569
CHAPTER 150 - BUILDING NUMBERING	585
CHAPTER 151 - TREES	587
CHAPTER 152 - KEY BOXES	589
CHAPTER 155 - BUILDING CODE.....	615
CHAPTER 157 - COMMUNICATIONS TOWERS AND ANTENNAS.....	635

TABLE OF CONTENTS

ZONING AND SUBDIVISION

CHAPTER 165 - ZONING REGULATIONS	665
--	-----

CHAPTER 170 - SUBDIVISION REGULATIONS.....	751
--	-----

INDEX

APPENDIX:

USE AND MAINTENANCE OF THE CODE OF ORDINANCES	1
---	---

SUGGESTED FORMS:

DANGEROUS BUILDINGS - FIRST NOTICE.....	7
---	---

DANGEROUS BUILDINGS - NOTICE OF HEARING	8
---	---

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

NOTICE TO ABATE NUISANCE	10
--------------------------------	----

NOTICE OF REQUIRED SEWER CONNECTION.....	11
--	----

NOTICE OF HEARING ON REQUIRED SEWER CONNECTION	12
--	----

RESOLUTION AND ORDER FOR REQUIRED SEWER CONNECTION	13
--	----

CHAPTER 1

CODE OF ORDINANCES

1.01 Title
1.02 Definitions
1.03 City Powers
1.04 Indemnity
1.05 Personal Injuries
1.06 Rules of Construction
1.07 Extension of Authority

1.08 Amendments
1.09 Catchlines and Notes
1.10 Altering Code
1.11 Severability
1.12 Warrants
1.13 General Standards for Action
1.14 Standard Penalty

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

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

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

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

[The next page is 9]

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

CHAPTER 2

CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of Lone Tree, 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)

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 – not to exceed \$750.00
 - B. Each repeat offense – not to exceed \$1,000.00

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

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

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

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

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

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[8])

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[11])

[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 Lone Tree as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

[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 & 45.6)

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

(Code of Iowa, Sec. 45.4)

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

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

[The next page is 35]

CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

1. Program Increase. Any increase in the amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.2[384, 388])

2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.3[384, 388])

3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.
(IAC, 545-2.4[384, 388])

4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.
(IAC, 545-2.4[384, 388])

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

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

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

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

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program 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.

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

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

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

(Code of Iowa, Sec. 384.22)

[The next page is 45]

CHAPTER 8

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
1991-3	November 4, 1991	Lone Tree Urban Renewal Area
1997-11	November 3, 1997	1997 Addition to the Lone Tree Urban Renewal Area
2002-4	October 7, 2002	2002 Addition to the Lone Tree Urban Renewal Area

o o o o o o o o o o

CHAPTER 9
URBAN REVITALIZATION

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
2001-1	April 2, 2001	Revitalization Area

[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, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem

15.04 COMPENSATION. Effective January 1, 2020, the salary of the Mayor is \$2,100.00 per year, and an additional \$25.00 for each regular or special meeting of the Council.
(*Code of Iowa, Sec. 372.13[8]*)

15.05 VOTING. The Mayor is not a member of the Council and shall not vote as a member of the Council.
(*Code of Iowa, Sec. 372.4*)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. City Clerk
2. City Attorney
3. City Engineer
4. Park Commission
5. Planning and Zoning Commission
6. Zoning Board of Adjustment
7. Housing Board of Adjustment and Appeal

17.06 COMPENSATION. The salary of each Council member is \$500.00 per year plus the additional sum of \$25.00 for each regular or special meeting of the Council.

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

[The next page is 81]

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words “LONE TREE, IOWA” and around the margin of which is the words “SEAL.”

o o o o o o o o o o

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. At its first meeting in January of any election year, the Council shall appoint by majority vote a City Attorney to serve for a term of two years. 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])

o o o o o o o o o o

CHAPTER 21

PLANNING AND ZONING COMMISSION

21.01 Planning and Zoning Commission
21.02 Term of Office
21.03 Vacancies

21.04 Compensation
21.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

21.03 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)

21.04 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)

21.05 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 95]

CHAPTER 22

PARK COMMISSION

22.01 Established
22.02 Membership

22.03 Terms
22.04 Duties and Powers

22.01 ESTABLISHED. There is hereby established a Park Commission for the City.

22.02 MEMBERSHIP. The Park Commission consists of five members appointed by the Council.

22.03 TERMS. The term of office for each member of the Park Commission is three years.

22.04 DUTIES AND POWERS. The Commission shall:

1. Recommend and review policies, rules, regulations, ordinances, and budgets relating to parks, playgrounds, recreational centers, and cultural functions of the City and make such reports to the Council as the Commission deems in the public interest.
2. Annually transmit to the Council a report of its activities and recommendations for the development and operation of parks, recreational centers, and playgrounds and cultural facilities and programs.
3. Exercise broad responsibility for the development of parks, recreation centers, playgrounds and cultural facilities to serve the City. Special attention shall be given to the development of long-range planning and programming.
4. Plan for the promotion of the general beauty of the City and its approaches.
5. Be responsible for integrating their program with other governmental agencies, including (but not limited to) the County and surrounding municipal units.

o o o o o o o o o

CHAPTER 23

CITY ENGINEER

23.01 Appointment
23.02 Qualification for Office

23.03 Duties

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

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

23.02 QUALIFICATION FOR OFFICE. The City Engineer shall meet the qualifications set by the Council.

23.03 DUTIES. The City Engineer is responsible for the following:

1. The construction of City streets, bridges, sidewalks, sewers and other capital improvement projects;
2. The planning and direction of the professional work of an engineering nature performed in the field or in the office including the preparation and preservation of engineering surveys, designs, plans, layouts, estimates and contract documents;
3. The care and maintenance of all buildings and properties, including the contents thereof, used wholly or directly in the operation of the department and all other municipally owned buildings not otherwise specifically assigned to some other department or agency;
4. Other duties and functions as may be assigned by State law, the provisions of this Code of Ordinances or by the Council.

[The next page is 121]

CHAPTER 30

CONTRACT LAW ENFORCEMENT

30.01 CONTRACT LAW ENFORCEMENT. Law enforcement services within the City shall be provided by the County Sheriff pursuant to an agreement executed between the County and the City, which is on file in the office of the Clerk.

(Code of Iowa, 28E.30)

[The next page is 127]

CHAPTER 35

FIRE PROTECTION

35.01 FIRE PROTECTION AND EMERGENCY MEDICAL SERVICE. Fire protection and emergency medical service will be provided to the citizens of the City by the Fremont-Lincoln-Pleasant Valley Fire Association, dba Lone Tree Fire and Rescue, pursuant to an agreement executed between that association and the City, which is on file in the office of the Clerk.

(Code of Iowa, Ch. 28E)

o o o o o o o o o o

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs

36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

1. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance.
(Code of Iowa, Sec. 455B.381[1])

2. “Hazardous condition” means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State, or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.
(Code of Iowa, Sec. 455B.381[4])

3. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. “Hazardous substance” may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.
(Code of Iowa, Sec. 455B.381[5])

4. “Responsible person” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.
(Code of Iowa, Sec. 455B.381[7])

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

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

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

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

36.05 NOTIFICATIONS.

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

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

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

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

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

[The next page is 151]

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

[The next page is 157]

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

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

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

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

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

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

- i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.
 - B. “Display fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Display fireworks” does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.
 - C. “Novelties” includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.
2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:
 - A. Personal Injury: \$250,000.00 per person
 - B. Property Damage:..... \$50,000.00
 - C. Total Exposure: \$1,000,000.00
3. Consumer Fireworks. It is unlawful for any person to use or explode consumer fireworks within the City.

[The next page is 163]

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 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
2. 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
3. Chapter 136 – Sidewalk Regulations
 - A. Section 136.12 – Interference with Sidewalk Improvements
 - B. Section 136.16 – Fires or Fuel on Sidewalks
 - C. Section 136.17 – Defacing
 - D. Section 136.18 – Debris on Sidewalks
 - E. Section 136.19 – Merchandise Display
 - F. Section 136.20 – Sales Stands

[The next page is 175]

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(6) of this Code of Ordinances.]*

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

(Code of Iowa, Sec. 123.47)

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Offenses.

A. No minor shall be in any public place or on the premises of any establishment within the City limits during the hours of:

(1) 11:00 p.m. on Sunday, Monday Tuesday, Wednesday and Thursday evenings to 5:30 a.m. of the following morning from September 1 to May 31.

(2) 12:30 a.m. on Sunday, Monday, Tuesday, Wednesday and Thursday evenings to 5:30 a.m. of the following morning from June 1 to August 31.

(3) 12:30 a.m. on Friday and Saturday evenings to 5:30 a.m. of the following morning from September 1 to May 31.

B. A parent or guardian commits an offense if he or she knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the City during the hours prohibited in Subsection 1(A).

C. The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during the hours prohibited in Subsection 1(A).

2. Definitions. The following terms are defined for use in this section:

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

B. “Establishment” means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

C. “Guardian” means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

D. “Minor” means any person under 18 years of age.

E. “Operator” means any person operating, managing or conducting any establishment including the members or partners of an association or partnership and the officers of a corporation.

F. “Parent” means a person who is:

- (1) A natural parent, adoptive parent or step-parent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

G. “Public place” means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops, alleys, sidewalks, parks, playgrounds and vacant lots.

3. Defenses.

A. It is a defense to prosecution under Subsection 3 of this section that the minor was:

- (1) Accompanied by the minor’s parent or guardian;
- (2) On an errand at the direction of the minor’s parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor’s residence or abutting the residence of a next-door neighbor;
- (7) Attending an official school, religious, cultural or other recreational or athletic activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, cultural, athletic or other recreational activity supervised by adults and sponsored by the City, a civic organization or other similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or
- (9) Married or previously married or if said minor had disabilities of minority removed in accordance with lawful authority of the State.

B. It is a defense to prosecution under Subsection 2(C) of this section that the owner, operator or employee of an establishment promptly notified the law enforcement authorities that a minor was present on the premises of the establishment during curfew hours and refused to leave.

4. Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection 3 of this section is present.

5. Penalty Provision. The City may elect, at its sole discretion, to prosecute any violation either as a simple misdemeanor or 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. *(Ord. 2020-3 – Oct. 20 Supp.)*

(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)

o o o o o o o o o o

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 Golf
47.07 Public Entertainment

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, shall enter or remain within any park between the hours of 10:30 p.m. and 6:00 a.m.

47.06 GOLF. No person shall practice golf in any park or playground unless soft or plastic practice balls are used.

47.07 PUBLIC ENTERTAINMENT. No person shall be in possession of any park or playground for any public entertainment or commercial purpose without the written consent of the Council.

[The next page is 201]

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.

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

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [†]
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.

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

- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The 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 3 of this Code of Ordinances.

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Enclosed structure” means anything constructed or erected, the use of which requires a permanent location on the ground, and shall be enclosed on all four sides and covered by a permanent roof.
2. “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 rear yard is not considered junk.
3. “Junk vehicle” includes any vehicle that meets the following criteria:
 - A. Any vehicle that is unlicensed or that does not have a current registration.
 - B. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 - C. Any motor vehicle if it lacks an engine or wheel or other structural parts so that the motor vehicle cannot be driven.
 - D. Any other vehicle that is defective and that in any way constitutes a threat to the public health and safety if operated on a roadway.
 - E. Mere licensing of any vehicle that meets any of the criteria in Paragraphs B, C, and D above does not constitute a defense to a finding that a vehicle is a junk vehicle.
4. “Hobby vehicle” means an unlicensed motor vehicle, including but not limited to antique car restoration, dragsters, stock cars, Indy-type racers, midget racers, demolition derby cars, all-terrain vehicles, dune buggies, go-carts, competition pulling garden tractors, competition pulling farm type tractors. For the purpose of this chapter, boat trailers, common utility trailers, golf carts, camping trailers or snowmobile trailers are not considered hobby vehicles. Vehicles which are licensed as classic or antique vehicles are not considered hobby vehicles for the purpose of this chapter.
5. “Vehicle” means every device by which a person or property may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks. Included with the definition of “vehicle” regulated by this chapter are the following: automobiles, trucks, motorcycles, tractors, horse-drawn buggies and wagons, farm machinery, golf carts, or any other kind of motor vehicle.

6. “Vehicle legally placed in storage” means any vehicle which is placed in legal storage with the County Treasurer.

51.02 JUNK AND JUNK VEHICLES PROHIBITED. A person may not store, accumulate, or keep within the City any junk or junk vehicle except as regulated by this chapter.

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.

1. The provisions of this chapter do not apply to any junk or a junk vehicle stored within:
 - A. Structure. A garage or other enclosed structure with a roof. For the purpose of this chapter, a fence does not constitute a structure.
 - B. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.
2. The provisions of this chapter shall not apply to any vehicle legally placed in storage, following the provisions stated herein.
 - A. Storage. Vehicles legally placed in storage are to be stored in a garage or other enclosed structure with a roof, or if kept outside covered by either a vehicle cover or tarp that is secured to the vehicle. For the purposes of this chapter, a fence does not constitute a structure. Vehicles legally placed in storage shall not occupy the public right-of-way and shall be kept on private property.
 - B. Documentation Required. All vehicles legally placed in storage and which are kept outside within the corporate limits of the City following the provisions above are to be kept on file with the office of the City Clerk accompanied by a copy of the vehicle registration showing the vehicle has been placed in storage. Such documentation shall include the make, model, color, and year of said vehicle, as well as the address and phone of the person storing said vehicle. Existing vehicles legally placed in storage shall have 30 days from the effective date of the ordinance codified by this chapter to file required documentation through City Hall. Vehicles which are brought into the corporate limits of the City after the effective date of the ordinance codified by this chapter for storage shall have one week to file the required documentation through City Hall. Failure to do so may result in said vehicle being deemed a nuisance and junk vehicle and shall be remedied under Chapters 50 and 51.
3. The provisions of this chapter shall not apply to hobby vehicles, as defined in this chapter, following the provisions stated herein:
 - A. Storage. Hobby vehicles are to be stored in a garage or other enclosed structure with a roof, or if kept outside covered by either a vehicle cover or tarp

that is secured to the vehicle. For the purpose of this chapter, a fence does not constitute a structure.

B. Outside Storage. Hobby vehicles shall not occupy the public right-of-way and shall be kept on private property. Special exception may be granted through City Hall for a hobby vehicle to occupy the public right-of-way for a period not to exceed one day. Said exception may be granted through the office of the City Clerk after receipt of a written request form during regular office hours.

C. Documentation Required. Any hobby vehicle to be stored outside within the corporate limits of the City following the provisions stated above, shall be kept on file with the office of the City Clerk. Such documentation shall include the make, model, color, and year of said vehicle, as well as the address and phone of the person storing, said vehicle. Existing hobby vehicles shall have 30 days from the effective date of the ordinance codified by this chapter to file required documentation through City Hall. Vehicles which are brought into the corporate limits of the City after the effective date of the ordinance codified by this chapter for storage shall have one week to file the required documentation through City Hall. Failure to do so may result in said vehicle being deemed a nuisance and junk vehicle and shall be remedied under Chapters 50 and 51.

D. Excessive Noise. Any excessive noise from these hobby vehicles shall be remedied under Chapter 40 of this Code of Ordinances.

4. Limit on Number. There shall be a limit of two vehicles, those legally placed in storage and/or hobby vehicles which are stored outside of an enclosed structure within the corporate limits of 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 215]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Owner's Duty
55.02 Animal Neglect	55.11 Confinement
55.03 Livestock Neglect	55.12 At Large: Impoundment
55.04 Abandonment of Cats and Dogs	55.13 Disposition of Animals
55.05 Livestock	55.14 Impounding Costs
55.06 At Large Prohibited; Leashing	55.15 Pet Awards Prohibited
55.07 Damage or Interference	55.16 Penalty Provisions
55.08 Annoyance or Disturbance	55.17 Tampering With A Rabies Vaccination Tag
55.09 Rabies Vaccination	55.18 Tampering With An Electronic Handling Device

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.

A. 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*)

(*Section 55.01 – Ord. 2020-4 – Oct. 20 Supp.*)

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.
- (Section 55.02 – Ord. 2020-4 – Oct. 20 Supp.)

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.

(Section 55.04 – Ord. 2020-4 – Oct. 20 Supp.)

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

55.06 AT LARGE PROHIBITED; LEASHING. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City. It is the duty of every person owning a dog to:

1. Confine said dog by good and sufficient means.
2. Cause said dog to be under the control of a person competent to restrain and control the dog, either by leash, cord, chain or other similar restraint of sufficient strength, and not more than six feet in length.
3. Properly restrain in a motor vehicle or house said dog in a veterinary hospital or registered kennel.
4. Maintain control by obedience beside or "at heel" unless the above conditions are also met.

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. Any person who walks a pet animal on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste.

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

55.09 RABIES VACCINATION. Every owner of a 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)

55.10 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)

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

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.14 IMPOUNDING COSTS. Impounding costs are established by resolution of the Council.

(Code of Iowa, Sec. 351.37)

55.15 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.

55.16 PENALTY PROVISIONS. The City may elect, at its sole discretion, to prosecution of any violation of this chapter either as a simple misdemeanor or as a municipal infraction.

55.17 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.

(Section 55.17 – Ord. 2020-4 – Oct. 20 Supp.)

55.18 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.

(Section 55.18 – Ord. 2020-4 – Oct. 20 Supp.)

[The next page is 225]

CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fees
56.03 Delinquency
56.04 Expiration

56.05 Immunization
56.06 Exemptions
56.07 Transfer of Licensed Animals
56.08 Duplicate Tags

56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog over the age of six months (or of a dog under the age of six months which is no longer with its dam) shall procure a dog license for each fiscal year, from the City, before the first day of July of the fiscal year for which the license is in effect, or within 30 days after such dog reaches the age of six months and is no longer with its dam, or if brought into the City.

2. The owner of a dog less than six months of age which is no longer with its dam, but it too young to be immunized, shall be issued a temporary license upon application to the City and payment of the regular fee. Such temporary license shall automatically expire seven months from the date of birth of the dog unless the owner furnishes to the City a veterinarian's certificate showing that the dog has been immunized. If such certificate is furnished prior to the time such dog reaches seven months, the temporary license shall automatically become a regular animal license.

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

56.03 DELINQUENCY. After July 1 of each year, delinquent license fees as determined by the City shall be assessed in addition to the annual license fee, except in those cases where, by reason of residence outside the City limits, age, or ownership, the dog was not subject to licensing on July 1. Such delinquent fees shall be set by the Council resolution.

56.04 EXPIRATION. All licenses, regardless of the date of issue, expire on June 30 of the fiscal year the license was in effect.

56.05 IMMUNIZATION. At the time of making application for a City license, the owner shall furnish to the City a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated and that such vaccination has not expired. Upon payment of the license fee established pursuant to this chapter, the City 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 City shall keep a duplicate of each license issued as a public record. Upon issuance of the license, the City shall deliver or mail to the owner a metal tag with the number of the license issued. Every pet animal shall wear the tag at all times. Any method may be used to attach the tag to the animal, such as a collar or other suitable device.

56.06 EXEMPTIONS. The licensing provisions of this section do not apply to dogs whose owners are residents temporarily within the City, or to dogs properly trained to assist visually impaired persons for the purpose of aiding them in going from place to place, provided that such

dogs are kept restrained on the owner's property, under supervision or control at all times, or on a leash at all times.

56.07 TRANSFERS OF LICENSED ANIMALS. When the permanent ownership of a dog is transferred, the owner shall, within 30 days from the date of the change of ownership, make application for a new license as provided for in this section, regardless of whether or not the dog was previously licensed.

56.08 DUPLICATE TAGS. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of a fee set by the Council.

[The next page is 229]

CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions

57.02 Keeping of Dangerous Animals Prohibited

57.03 Keeping of Vicious Animals Prohibited

57.04 Seizure, Impoundment and Disposition

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

1. “Dangerous animal” means the following animals: †
 - A. Badgers, wolverines, weasels, skunk and mink.
 - B. Raccoons.
 - C. Bats.
 - D. Scorpions.
 - E. Opossums.
 - F. Piranhas.
2. “Vicious animal” means any animal, except for a dangerous animal as listed above, that has attacked, bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal: (i) has bitten or clawed a person or persons on two separate occasions within a 12-month period; or (ii) did bite or claw once causing injuries above the shoulders of a person; or (iii) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (iv) has attacked any domestic animal or fowl on three separate occasions within a 12-month period.

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

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

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

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

57.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

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

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

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

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

[The next page is 251]

CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 Power to Direct Traffic

60.05 Reports of Traffic Accidents
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers
60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Lone Tree 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. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school, or residence districts.
10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. Definition. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.
3. Parade Not a Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.

4. Control by Peace Officers and 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 of Traffic Control Devices
61.02 Compliance
61.03 Crosswalks

61.04 Traffic Lanes
61.05 Standards

61.01 INSTALLATION OF TRAFFIC CONTROL DEVICES. The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic, and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 & 321.255)

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

(Code of Iowa, Sec. 321.256)

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

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

61.04 TRAFFIC LANES. Where traffic lanes have been marked on street pavements at such places as traffic conditions require, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

61.05 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)

o o o o o o o o o

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

62.01 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. Display of Registration and License to Drive: 321.17, 321.32, 321.37, 321.38, 321.57, 321.67, 321.78, 321.79, 321.91, 321.98, 321.99, 321.104, 321.115, 321.174, 321.174A, 321.180, 321.180B, 321.193, 321.194, 321.208A, 321.216, 321.216B, 321.216C and 321.218 through 321.224.
2. All Terrain Vehicles, Golf Carts, and Bicycles to Obey Traffic Regulations, Speed Detection Jamming Devices, Road Workers: 321.232 through 321.234A, 235A and 321.247.
3. Traffic Signs, Signals, and Markings: 321.259 and 321.260.
4. Accidents and Accident Reporting: 321.262 through 321.266.
5. Operation of Motorcycles and Motorized Bicycles: 321.275.
6. Drag Racing; Speed; Open Containers; Control of Vehicle: 321.276, 321.277, 321.277A, 321.278, 321.281, 321.284, 321.284A, 321.288, 321.295, 321.333, 321.382 and 321.383.
7. Driving on Right, Meeting, Overtaking, Following, or Towing: 321.297 through 321.299 and 321.302 through 321.310.
8. Turning and Starting, Signals on Turning and Stopping: 321.312 through 321.318.
9. Right-of-Way: 321.319 through 321.324A.
10. Pedestrian Rights and Duties and Safety Zones: 321.329, 321.330, 321.332, 321.333, and 321.340.
11. Railroad Crossings: 321.341 through 321.344 and 321.344B.
12. Stopping, Standing, Parking: 321.354 and 321.359.
13. Unattended Vehicle, Obstructing Driver's View, Crossing Median, Following Fire Apparatus, or Crossing Fire Hose, and Putting Glass, Etc., on Streets: 321.362 through 321.365 and 321.367 through 321.371.
14. School Buses: 321.372.
15. Lighting Equipment Required and Time of Use: 321.384 through 321.390, 321.392 through 321.395, 321.398, 321.402 through 321.405, 321.408, 321.409, 321.415, 321.417 through 321.423. In accordance with authorization granted by

Section 321.395, *Code of Iowa*, motor vehicles parked upon any street where permitted by this chapter need not display required lights where there is sufficient light emitted from City street lights to reveal any person or object within a distance of five hundred (500) feet upon such street.

16. Brakes, Horns, Sirens, Mufflers, Wipers, Mirrors, Tires, Flares, Windows, Safety Belts, and Special Markings for Transporting Explosives: 321.430 through 321.434; 321.436 through 321.442; 321.444 through 321.446, 321.449, 321.449A, 321.449B, and 321.450.

17. Size, Weight, and Load: 321.454 through 321.458, 321.460 through 321.463, 321.465 and 321.466.

18. Unsafe Vehicles: 321.381 and 321.381A.

62.02 PLAY STREETS DESIGNATED. 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.

[The next page is 263]

CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On West Pioneer Road, going west beginning 500 feet from 307 W. Pioneer Road to 5099 560th Street SE.
2. 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 N. Devoe Street from north City limits to W. Kirkpatrick Street.

3. Special 15 MPH Speed Zones. A speed in excess of 15 MPH is unlawful on any of the following designated street or parts thereof.

A. On S. Devoe Street from Elm Street to Pioneer Street.

(Section 63.04 – Ord. 2025-1 – Mar. 25 Supp.)

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

(Code of Iowa, Sec. 321.294)

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

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.

(Code of Iowa, Sec. 321.311)

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 and at any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

o o o o o o o o o o

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Yield to Pedestrians in Crosswalks

65.01 STOP OR YIELD. Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Chapter 61 of this Traffic Code.

65.02 SCHOOL STOPS. At any school crossing zone, 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)

65.03 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)

65.04 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.

65.05 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)

o o o o o o o o o o

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

66.01 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 erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.471 & 472)

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

(Code of Iowa, Sec. 321.473 & 321E.1)

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.473 & 475)

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Chapter 61 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

o o o o o o o o o

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

67.01 WALKING IN STREET. Pedestrians shall at all times, when walking on or along a street, walk on the left side of the street.

(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, Sec. 321.328)

o o o o o o o o o o

CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

(Code of Iowa, Sec. 321.236[4])

o o o o o o o o o o

CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled
69.02 Park Adjacent to Curb
69.03 Parking on One-Way Streets
69.04 Angle Parking
69.05 Manner of Angle Parking
69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited
69.08 Persons With Disabilities Parking
69.09 Truck Parking Limited
69.10 Recreational Vehicles
69.11 Snow Removal

69.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Chapter 61 of this Traffic Code. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

69.02 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)

69.03 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)

69.04 ANGLE PARKING. Angle or diagonal parking is permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. DeVoe Street on both sides between Elm Street and Kirkpatrick Street except for the area on the west side consisting of the south 64 feet of the north 110 feet of Block 4.
2. DeVoe Street on the west side between Linn Street and Sunnyside Street.
3. DeVoe Street, on the west side, at 303 S. DeVoe Street (Lone Tree Community School).
4. On West Linn Street and DeVoe Street, at 209 S. DeVoe Street (Lone Tree Wellness Center).
5. 400 block of East Linn Street, on the south side (Eastside Village).
6. 112 West Elm Street, on the south side of building off of Elm Street. (United Presbyterian Church)

69.05 MANNER OF ANGLE PARKING. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than

at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle or the load thereon, when 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)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 72 hours, unless otherwise limited under the provisions of Section 69.01 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 the Code of Ordinances.

69.07 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 which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 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 shall not apply to a vehicle parked in any alley which is 18 feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

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

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

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

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

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

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

69.09 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or motor vehicle with trailer attached in violation of the following regulations:

1. **Parking Restricted.** Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended any vehicle more than 19 feet in length on any streets within the City. When actually receiving or delivering merchandise or cargo, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic, and such receiving and delivery time shall not exceed 60 minutes at any one time.
2. **Truck Parking Lot.** There is a 30-minute warm-up time allowed in the truck parking lot in the 100 block of West Commercial.
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 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 more than 30 minutes.

69.10 RECREATIONAL VEHICLES. It is unlawful to park a boat trailer, utility trailer, or unoccupied motor home, travel or camping trailer, on any public street, alley or place for a period of time in excess of 24 hours. Upon application to the Mayor, emergency or temporary parking for occupied travel trailers and motor homes may be permitted at designated locations on public streets, alley, or any other public or private place for a three-day period, subject to extended time of up to three days upon application, and subject to any other prohibitions or regulations imposed by traffic and parking ordinances of the City.

69.11 SNOW REMOVAL. No person shall park or leave unattended any vehicle on any public street or public parking lot in the City in such a manner as to interfere with the plowing or removal of snow or ice from such street or parking lot during a snow emergency. The accumulation of snow on any streets or areas which hinders the safe movement of traffic thereon or that impedes the ability of emergency vehicles and public transportation vehicles to travel safely and expeditiously over such streets or areas constitutes a snow emergency and the City shall, by appropriate public media, declare the beginning of an emergency and the application of emergency snow parking regulations, which regulations shall remain in force and effect until lifted by the City. The City is hereby authorized and empowered to erect signs prohibiting parking upon any street in the City and upon any City-owned parking lot upon which snow plowing or snow removal equipment is operating and upon the erection of such signs, parking thereon shall be prohibited until such signs are removed at the direction of the City.

[The next page is 291]

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Vehicle Unattended

70.04 Presumption in Reference to Illegal Parking

70.05 Impounding Vehicles

70.01 ARREST OR CITATION. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such officer may:

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate; or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: 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.

70.04 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.

70.05 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 305]

CHAPTER 75

SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Manner of Operation

75.05 Places of Operation

75.06 Exceptions

75.07 Accident Reports

75.08 Negligence

75.09 Penalty Provision

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of snowmobiles within the City.

75.02 DEFINITIONS. The definitions found in Chapter 321G of the *Code of Iowa* apply to this chapter. A snowmobile is therein defined as a motorized vehicle weighing less than 1,000 pounds which 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 which has been altered or equipped with runners, skis, belt-type tracks or treads.

75.03 GENERAL REGULATIONS. No person shall operate a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa*; or of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment, and manner of operation; or of the provisions of this chapter.

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

1. No snowmobile shall be driven within the City solely for the operator’s entertainment or pleasure.
2. A person shall not operate a snowmobile in the City in a careless, reckless, or negligent manner, or in a manner that endangers or causes damage to the person or property of another.
3. No person, while under the influence of intoxicating liquor or illegal drugs, shall operate a snowmobile within the City.
4. No snowmobile shall be operated in the City between the hours of 2:00 a.m. to 8:00 a.m. except for emergency situations or for loading and unloading from a transport trailer or for the sole purpose of returning to a primary residence within the City.
5. No snowmobile shall be operated in the City unless registered pursuant to Chapter 321G of the *Code of Iowa* and unless the identifying number set forth in the registration is displayed on each side of the snowmobile.
6. All snowmobiles operated in the City shall be equipped with muffling devices, lights, and other equipment required by State law or regulations.
7. Snowmobile operators shall observe all State and local traffic control regulations and devices and shall not operate a snowmobile at a speed in excess of that

posted or at any time at a rate of speed greater than reasonable and proper under all existing circumstances.

8. No snowmobile shall be operated within 100 feet of a dwelling at a speed greater than the minimum speed required to maintain forward movement of the snowmobile.

9. Snowmobiles shall be driven in a single file manner in the proper lane of traffic as close to the curb or edge of the roadway as is possible under existing conditions.

10. No operator shall leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with the keys in the ignition switch.

11. A snowmobile shall not be operated on or across a public highway by a person under 16 years of age who does not have in the person's possession a safety certificate issued to the person pursuant to Chapter 321G of the *Code of Iowa*. Any 12 to 15 year old person possessing a valid safety certificate must be accompanied by and under the direct supervision of a responsible person of at least 18 years of age and who is experienced in snowmobile operation and who possesses a valid operator's or chauffeur's license, instruction permit, or temporary permit issued under Chapter 321 of the *Code of Iowa*, or a safety certificate issued under Chapter 321G of the *Code of Iowa*.

12. No owner or operator of any snowmobile shall allow a person less than 12 years of age to operate the snowmobile except when accompanied on the same snowmobile by a responsible person of at least 18 years of age and who is experienced in snowmobile operation and who possesses a valid operator's or chauffeur's license, instruction permit, or temporary permit issued under Chapter 321 of the *Code of Iowa*, or a safety certificate issued under Chapter 321G of the *Code of Iowa*.

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

1. No snowmobile shall be driven on an all-terrain vehicle trail except where so designated.

2. The designated snowmobile routes shall be established by resolution of the Council.

3. Snowmobiles shall be operated on streets not included among the designated snowmobile routes if these have not been plowed during the snow season unless for the sole and exclusive purpose of traveling from one area of allowed operation to another, of ingress to or egress from the City, or between a person's place of residence and the nearest designated snowmobile route.

4. 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 the purpose of crossing the same to a public street upon which operation is authorized by this chapter.

5. Snowmobiles shall not be operated in any cemetery, park, playground or upon other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land that does not have a snow cover of at least one-tenth of an inch.

6. Snowmobiles shall not be operated within a one-block radius of the buildings of the Lone Tree Community Schools during normal school hours. At no time shall snowmobiles be operated within the Lone Tree Community Schools campus.
7. Snowmobiles shall not be operated on private property without the express permission of the property owner or the resident occupant of the property, except in the case of an emergency.

75.06 EXCEPTIONS. Snowmobiles may be operated on prohibited streets only under the following circumstances:

1. 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.
2. Snowmobiles may make a direct crossing of a prohibited street provided:
 - A. 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.
 - B. The snowmobile is brought to a complete stop before crossing the shoulder or the main traveled way of the street or highway.
 - C. The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$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 & 321I.11)

75.08 NEGLIGENCE. The owner and operator of a snowmobile are liable for any injury or damage occasioned by the negligent operation of the snowmobile.

75.09 PENALTY PROVISION. The City may elect, at its sole discretion, to prosecution of any violation of this chapter either as simple misdemeanor or as a municipal infraction.

o o o o o o o o o o

CHAPTER 76

UTV AND GOLF CART REGULATIONS

76.01 Purpose	76.08 Hours of Operation
76.02 Definitions	76.09 Speed
76.03 Basic Specifications for UTVs	76.10 Traffic Code
76.04 Operation of UTVs Permitted	76.11 Permits
76.05 Operation of Golf Carts Permitted	76.12 Accident Reports
76.06 Prohibited Locations	76.13 Violation and Penalty
76.07 Equipment	76.14 Annual Review

76.01 PURPOSE. The purpose of this chapter is to permit the operation of UTVs and golf carts on certain streets in the City, as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter applies whenever a UTV or golf cart is operated on any street or alley, subject to those exceptions stated herein.

76.02 DEFINITIONS.

1. “Golf cart” means a three- or four-wheeled recreational vehicle generally used for transportation of persons in the sport of golf and which is either electric powered or gas powered with an engine replacement of less than 351 cubic centimeters, and a total dry weight of less than 800 pounds. No golf cart may be modified from factory specifications.
2. UTVs have several different names including LUVs, utility vehicles, side by sides and recreational off-highway vehicles. Utility-type models include, but are not limited to, Kubota and the Kawasaki Mule; newer, sport-type models include the Polaris RZR and the Kawasaki Teryx.

76.03 BASIC SPECIFICATIONS FOR UTVs.

1. Not a Golf Cart. Golf cart means a vehicle whose speed attainable in one mile does not exceed 25 miles per hour on a paved, level surface, and that is designed and intended to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.
2. Not a Low-Speed Vehicle. Low-speed vehicle means a low-speed vehicle, as defined in 49 CFR 571.3, that satisfies the equipment standards under 49 CFR 571.500 and that was originally manufactured to meet the applicable equipment standards under 49 CFR 571.500.
3. UTVs are originally manufactured with the following:
 - A. Between 900 pounds and 1,999 pounds.
 - B. Four or more low pressure tires.
 - C. Cargo or dump box.
 - D. Steering wheel, tail light, brake light, two headlights, seat belts or similar device.
 - E. Max width of 65 inches.

- F. Seating for at least two occupants, non-straddled seats.
- G. A roll bar or similar device.

76.04 OPERATION OF UTVS PERMITTED. UTVs may be operated upon the streets of the City by persons who are 18 years of age or older and are possessing a valid Iowa operator's license, except as prohibited in Section 76.06 of this chapter. While operated on a City street, the number of passengers permitted on a UTV shall not exceed the number of seats intended for passengers. While on City streets, operators must have on their person or in the UTV proof of the required insurance.

76.05 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons who are 16 years of age or older and have a valid operator's license, except as prohibited in Section 76.06 of this chapter. While operated on a City street the number of passengers permitted on a golf cart shall not exceed the number of seats intended for passengers. While on City streets, operators must have on their person or in the golf cart proof of the required insurance.

76.06 PROHIBITED LOCATIONS.

1. Streets. UTVs and golf carts shall not be operated upon any City streets with a posted speed limit of greater than 25 mph. However, UTVs and golf carts may cross such streets.
2. Trails. UTVs and golf carts shall not be operated on any recreational, bike, or walking trail.
3. Sidewalks. UTVs and golf carts shall not be operated upon sidewalks.
4. Parking. UTVs and golf carts shall not be operated 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."
5. City Parks, Playgrounds, or Private Property. UTVs and golf carts shall not be operated on private property without prior permission or in City parks or upon other City-owned land unless for a special event authorized by the City Council and the operator possesses a valid City permit.
6. Special Exemptions. The Mayor is authorized to permit UTVs and golf carts to operate on restricted City streets for certain special events.

76.07 EQUIPMENT.

1. UTVs and golf carts operated upon City streets 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, and extend a minimum of two feet above the highest point of the UTV.
2. UTVs operated on City streets shall be equipped with a muffler, headlights, taillights, and adequate brakes to stop and hold the UTV in a stopped position.
3. UTVs operated on City streets shall be equipped with an adequate exhaust system.

4. Golf carts operated on City streets shall be equipped with head lights and adequate brakes to stop and hold the cart in a stopped position.

76.08 HOURS OF OPERATION.

1. Golf carts may be operated on City streets only between sunrise and sunset as set by the U. S. Naval Observatory.
2. UTVs may be operated on City streets only between sunrise and sunset as set by the U. S. Naval Observatory, except for emergency situations or for loading or unloading from a transport trailer, and except that UTVs may be operated during prohibited hours to perform snow removal activities.

76.09 SPEED. No UTV shall be operated at a speed in excess of the lesser of 25 miles per hour or that posted, nor shall any UTV be operated at a speed greater than is reasonable and proper for the existing conditions. Golf carts shall be operated at a speed in excess of the lesser of 25 miles per hour or that posted. Golf carts shall not be modified to increase speed.

76.10 TRAFFIC CODE. Any person operating an UTV or golf cart, including those for which a City permit has been issued, shall strictly 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. No person shall leave a UTV or golf cart unattended on public property while the motor is running or the keys are in the ignition switch.

76.11 PERMITS. No person shall operate a UTV or golf cart on any public street or alley for any purpose unless the operator possesses a City permit to operate a UTV or golf cart on City streets, issued by the City Clerk.

1. Owners of UTVs and golf carts may apply for a permit from the City Clerk on forms provided by the City.
2. The Clerk shall not issue a permit until the owner/operator has provided the following:
 - A. Evidence that the owner/operator possesses a valid driver's license.
 - B. Proof that the owner/operator has liability insurance (minimum limit of \$300,000.00 coverage) covering operation of UTV or golf cart on City streets.
3. The operator of a UTV shall display the City permit sticker prominently on a rear fender or on a similar component which is clearly visible from the rear. The operator of a golf cart shall display the City permit sticker on the front left fender or on a similar component which is clearly visible.
4. All permits issued shall uniquely identify the name and address of the owner.
5. The annual fee for such permits shall be set by resolution.
6. The permits expire annually on December 31 regardless of the date of issue.
7. Copy of permits that are signed and dated by the applicants are to be kept on file at City Hall.
8. Permits can be revoked by the Mayor as result of any violation of this Code of Ordinances or the *Code of Iowa*. The revocation, including a description of the violation, shall be provided in writing to the owner of the UTV or golf cart. The

revocation may be appealed to the City Council within 10 days of the written notice of revocation of the permit. The owner shall request the appeal in writing and submit the appeal to the City Clerk.

76.12 ACCIDENT REPORTS. Either the operator, or someone acting for the operator, shall immediately notify a law enforcement officer whenever a UTV is involved in an accident resulting in injury or death to anyone, or property damage amounting to \$1,500.00 or more, and shall file an accident report within 48 hours, in accordance with State law.

76.13 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 of \$100.00 and revocation of the City permit for a period of six months.
2. Any person guilty of violating this chapter two times shall be subject to a fine of \$300.00 and permanent revocation of the City permit.
3. Persons violating this chapter may also be prosecuted, and subject to the penalties set out in, Section 321I.36 of the *Code of Iowa*.

76.14 ANNUAL REVIEW. The City Council shall annually review this chapter to determine if it warrants amendment or repeal.

CHAPTER 77

ATV REGULATIONS

77.01 Purpose
77.02 Definitions
77.03 General Regulations
77.04 Permits
77.05 Authorized Uses
77.06 Equipment

77.07 Operation
77.08 Locations
77.09 Accident Reports
77.10 Violation and Penalty
77.11 Annual Review

77.01 PURPOSE. The purpose of this chapter is to establish a permit to authorize the operation of all-terrain vehicles (ATVs) on certain streets for the purpose of snow removal, lawn care, and gardening within the City, as authorized and pursuant to Section 321.234A and Chapter 321I of the *Code of Iowa*.

77.02 DEFINITIONS. “Off-road utility vehicle” (ORUV) or “all-terrain vehicle” (ATV) (ATV or ORUV terms may be used interchangeably) means a motorized vehicle with not less than four and not more than eight non-highway tires or rubberized tires and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

1. “Off-road utility vehicle – type 1” means an off-road utility vehicle or ATV with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.
2. “Off-road utility vehicle – type 2” means an off-road utility vehicle or ATV, other than a type 1 off-road utility vehicle, with a total dry weight of 2,000 pounds or less, and a width of 65 inches or less.
3. “Off-road utility vehicle – type 3” means an off-road utility vehicle or ATV with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

77.03 GENERAL REGULATIONS. No person shall operate an all-terrain vehicle (ATV) within the City limits, in violation of the provisions of Chapter 321I of the *Code of Iowa* or rules enacted by the Iowa Department of Natural Resources governing the registration, numbering, equipping or manner of operation; or the provisions of this chapter.

77.04 PERMITS. No person shall operate an all-terrain vehicle on any public street, or alley for any purpose unless the operator possesses a City permit to operate an ATV on City streets, issued by the City Clerk. ATV operators may apply for a permit as set out in Section 76.11 of this Code of Ordinances.

77.05 AUTHORIZED USES. ATV operators holding City permits may only operate an all-terrain vehicle on City streets and alleys in compliance with all requirements set out herein and for the following purposes:

1. Snow removal via attached snowplow or blade.
2. Gardening and/or lawn work.
3. Special events authorized by the City Council.

77.06 EQUIPMENT. Any ATV for which a City permit is issued shall be equipped as required by Sections 321I.12 and 321I.13 of the *Code of Iowa*, including (but not limited to): muffler, headlight, tail light and brakes. ATVs shall be equipped with an adequate exhaust system. ATVs shall also be equipped with a bicycle safety flag of fluorescent orange color on a staff holder to put such flag at least five feet above the surface of the street and extend a minimum of two feet above the highest point of the ATV.

77.07 OPERATION.

1. To operate an ATV on any City street, alley, or right-of-way, a person shall be at least 16 years of age and shall have a valid driver's license. While on City streets, operators must have on their person or in the ATV proof of the required insurance.
2. Traffic Code. Any person operating an ATV, including those for which a City permit has been issued, shall strictly 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.
3. Speed. No ATV shall be operated at a speed in excess of the lesser of 25 miles per hour or that posted, nor shall any ATV be operated at a speed greater than is reasonable and proper for the existing conditions.
4. Unattended ATVs and Parking. No person shall leave an ATV unattended on public property while the motor is running or the keys are in the ignition switch. Owner/operators shall comply with all parking regulations in the City.
5. Hours of Operation. ATVs may be operated on City streets only between sunrise and sunset as set by the U. S. Naval Observatory, except for emergency situations or for loading or unloading from a transport trailer; except that ATVs may be operated during prohibited hours to perform snow removal activities.

77.08 LOCATIONS.

1. City Streets. ATV operators holding valid City permits may operate ATVs upon streets under the jurisdiction and within the corporate limits of the City for the purposes listed above. ATVs shall not be operated on any street with a posted speed limit of greater than 25 mph. However, ATVs may cross the aforementioned streets.
2. Trails. ATVs shall not be operated on any recreational, bike or walking trail.
3. Sidewalks. ATVs shall not be operated upon sidewalks unless the operator possess a valid City permit and is engaged in snow removal or sidewalk maintenance activities.
4. Parking. ATVs shall not be operated 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" if the operator possess a valid City permit unless engaged in snow removal, maintenance or landscaping activities for the abutting property.
5. City Parks, Playgrounds, or Private Property. ATVs shall not be operated on private property without prior permission or in City parks or upon other City-owned land unless for a special event authorized by the City Council and the operator possesses a valid City permit.

77.09 ACCIDENT REPORTS. Either the operator, or someone acting for the operator, shall immediately notify a law enforcement officer whenever an ATV is involved in an accident

resulting in injury or death to anyone, or property damage amounting to \$1,500.00 or more, and shall file an accident report within 48 hours, in accordance with State law.

77.10 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 of \$100.00 and revocation of the City permit for a period of six months.
2. Any person guilty of violating this chapter two times shall be subject to a fine of \$300.00 and permanent revocation of the City permit.
3. Persons violating this chapter may also be prosecuted and subject to the penalties set out in Section 321I.36 of the *Code of Iowa*.

77.11 ANNUAL REVIEW. The City Council shall annually review this chapter to determine if the same warrants amendment or repeal.

[The next page is 325]

CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions	80.06 Disposal of Abandoned Vehicles
80.02 Authority to Take Possession of Abandoned Vehicles	80.07 Disposal of Totally Inoperable Vehicles
80.03 Notice by Mail	80.08 Proceeds from Sales
80.04 Notification in Newspaper	80.09 Duties of Demolisher
80.05 Fees for Impoundment	

80.01 DEFINITIONS. For use in this chapter, the following terms are defined:
(*Code of Iowa, Sec. 321.89[1] & Sec. 321.90*)

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

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

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

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 20 days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within 10 days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 10-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the 10-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay a fee as set by resolution of the Council if claimed within five days of impounding, and an additional fee as set by resolution of the Council for each additional day within the reclaiming period plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two 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 341]

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 Water Taps Fees	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 Public Works Foreman 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. Except as otherwise provided herein, all residences and business establishments within the City using water for human habitation or occupancy shall be connected to the City public water system. Water is used for human habitation or occupancy if it is used in the plumbing system of a residence or a business occupied by humans.

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 WATER TAP FEES. Any person whose premises is located within the corporate limits of the City who wishes such property to be connected to the City water mains shall be charged a water tap fee based upon the size of the water line, as follows:

¾-inch tap.....	\$ 350.00
1-inch.....	\$ 450.00
2-inch.....	\$ 650.00
3-inch.....	\$ 850.00
4-inch.....	\$ 1,050.00
6-inch.....	\$ 1,300.00
8-inch.....	\$ 1,650.00
12-inch.....	\$ 2,500.00

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.

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 from the curb valve to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.

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

90.14 CURB VALVE. There shall be installed 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.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property

owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

[The next page is 349]

CHAPTER 91

WATER METERS

91.01 Purpose	91.06 Meter Costs
91.02 Water Use Metered	91.07 Meter Repairs
91.03 Fire Sprinkler Systems; Exception	91.08 Right of Entry
91.04 Location of Meters	91.09 Maintenance Test
91.05 Meter Setting	91.10 Meter Testing

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 or a contractor.

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 MAINTENANCE TEST. Every meter shall be removed from service periodically and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of five percent shall not be returned to service until properly adjusted.

91.10 METER TESTING. The Superintendent 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 for a longer period than 12 months. If the meter is found to be accurate or slow or less than five percent fast, the user shall pay the reasonable cost of the test.

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 Utility Deposits
92.10 Temporary Service Charge

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. In the event that a property has an inside meter and an outside meter reading device and there is a discrepancy between the readings, the reading of the inside meter shall be the official reading to be used by the City for water billing and all other official purposes. Each location, building, premises, or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not. The service charges shall be billed as part of a combined service account which means a customer service account for the provision of two or more utility services.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following bi-monthly rates within the City of Lone Tree to be effective July 01, 2021. Water rates shall increase 2% per year on July 1, 2021 and each July 1st thereafter:

1. First 3,500 gallons used per two-month period @ \$17.51 (minimum bill).
2. All over 3,500 gallons used per two-month period @ \$5.57 per 1,000 gallons, except for the Lone Tree Community Schools and the Lone Tree Housing Authority, which shall be assessed \$2.31 for each additional 1,000 gallons of water used. Any usage in excess of the multiple of 1,000 shall be rounded up to the next higher multiple of 1,000 gallons.
3. An additional fee of \$2.00 will be included on each two-month water billing to pay for use of the Iowa City Public Library.
4. An additional fee of \$37.00 will be included on each two-month water billing for garbage/recycling contract.

(Section 92.02 – Ord. 2021-1 – May 21 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the same rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84).

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts billed bi-monthly or six times each year.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk 20 days after issued. Bills not paid when due shall be considered delinquent. A late payment penalty of 10 percent, with a minimum charge of \$10.00, of the user charge bill will be added to each delinquent bill for each delinquency period. If payment is not received after due notice and a final 24-hour notice of delinquency has been posted on the premises of the delinquent account, a notice fee of \$25.00 shall be assessed to the delinquent account.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Mayor's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.

4. Fees. A fee of \$50.00 shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such

services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. **Other Service Exemption.** The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.

4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 UTILITY DEPOSITS. There shall be required from the owner of each premises served a \$50.00 deposit intended to guarantee the payment of bills for utility service. There shall be required from every customer not the owner of the premises served a deposit intended to guarantee the payment of bills for service.

(Code of Iowa, Sec. 384.84)

1. \$75.00 for one person residing in a rental residence.

2. \$125.00 for two persons residing in a rental residence.
3. \$200.00 for three more persons residing in a rental residence.

92.10 TEMPORARY SERVICE CHARGE. When temporary water service is requested for a domestic structure under construction and it is not possible to install a meter, the owner or contractor shall be billed a flat fee of \$3.00 per month. The water used under this provision shall not be used for settling ditches or irrigating yards or gardens.

[The next page is 357]

CHAPTER 93

WATER WELLS

93.01 Definitions
93.02 Private Wells
93.03 Existing Wells
93.04 New Wells
93.05 Permit

93.06 Contaminated Area
93.07 Variance
93.08 Termination of Use of Existing Wells
93.09 Exceptions

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

1. “Private well” means any groundwater well, except a monitoring well used as part of a remediation system, used both for drinking water and for non-drinking water purposes, including a groundwater well which is not properly plugged in accordance with rules of the Iowa Department of Natural Resources.
2. “Contaminated area” means a point within an area that has groundwater contamination or that in accordance with design models of the Iowa Department of Natural Resources may become contaminated due to percolation of groundwater contamination in the vicinity of the well site.
3. “Human habitation or occupancy” means use of water in the plumbing system of a residence or business used or occupied by humans.

93.02 PRIVATE WELLS. A residence or business establishment within the City using water for human habitation or occupancy may obtain its water from a private well in accordance with this chapter.

93.03 EXISTING WELLS. A well in existence on the effective date of the ordinance codified in this chapter may continue to obtain water from a private well as follows:

1. For irrigation of grass and landscape plantings upon the property for so long as desired.
2. For human habitation or occupancy until the date established in Section 93.08 of this chapter.

93.04 NEW WELLS. A well may be drilled only upon property which does not have access to the City water system within 200 feet of the property, and use of the well for human habitation or occupancy may continue until the date established in Section 93.08 of this chapter.

93.05 PERMIT. No person shall install or maintain a private well after the date of enactment of the ordinance codified in this chapter, or own or use a private well within the City after such date, unless the person has registered such well and obtained a permit for same from the City. The registration and permit process shall be completed on forms provided by the City.

93.06 CONTAMINATED AREA. Notwithstanding anything to the contrary which permits a private well to remain in existence within the City, neither shall a new private well be drilled nor shall repairs to an existing private well be made after the date of enactment of the ordinance codified in this chapter, if the well is located within a contaminated area.

93.07 VARIANCE. The City Council, upon recommendation of the Superintendent, or the Superintendent's designated assistant or agent, may consider a variance or exception to this chapter on application to the City.

93.08 TERMINATION OF USE OF EXISTING WELLS. The use of any private well not permitted to continue under this chapter shall cease and the well shall be plugged in accordance with rules of the Iowa Department of Natural Resources on January 01, 2013, or 90 days after the date the public water system is extended to within 300 feet of the affected property, whichever is later.

93.09 EXCEPTIONS.

1. This chapter shall not apply to any wells which, in the opinion of the City Council, are required to be drilled by it for the purposes of obtaining and furnishing additional water for the general public use and the preservation and protection of the public health, safety and general welfare of the residents of the City.
2. This chapter shall not apply to closed loop, vertical, geothermal heating and cooling loop fields. However, prior to the installation of the loop field a City permit must be obtained.

[The next page is 367]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required

95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 90 days after date of official notice from the City to do so provided that said public sewer is located within 200 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except Subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in Subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Connection Charge
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 CONNECTION CHARGE. There shall be a connection charge in the amount of \$250.00 paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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 and one-half 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])

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an

average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

o o o o o o o o o o

CHAPTER 99

SEWER USE CHARGE

99.01 Purpose	99.08 Application
99.02 Definitions	99.09 Payment of Bills
99.03 Use of Funds	99.10 Lien for Nonpayment
99.04 Accounts Designated	99.11 Review of User Charge System
99.05 Year-end Balances	99.12 Notification of Rate Change
99.06 Charges Based on Usage	99.13 Sewer Rental Exemption
99.07 Responsibility for Increased Costs	99.14 Special Agreements Permitted
	99.15 Priority

99.01 PURPOSE. It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the City to collect charges from all users who contribute wastewater to the City's treatment works now or may in the future. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such public wastewater treatment works.

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

1. "Operation and maintenance" means all expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining the treatment works to achieve the capacity and performance for which such works were designed and constructed.
2. "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
3. "Treatment works" means any devices and systems used for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be an integral part of the treatment process or used for ultimate disposal of residues resulting from such treatment (including land used for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.
4. "Useful life" means the estimated period during which a treatment works will be operated.
5. "User charge" means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

99.03 USE OF FUNDS. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the City may by ordinance designate to be paid by the user charge system. The total user charge shall be divided into a portion designated for operation and maintenance including replacement of the treatment works and a portion adequate to pay the debt service for the treatment works. This chapter shall establish those portions of the total user charge and shall describe a system for allocating said charges between active and non-active users of the system.

99.04 ACCOUNTS DESIGNATED. That portion of the total user charge collected which is designated for operation and maintenance including replacement purposes as established in Section 99.06 shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund and will be kept in two primary accounts as follows:

1. Operation and Maintenance Account. An account designated for the specific purpose of defraying operation and maintenance costs (excluding replacement) of the treatment works.
2. Replacement Account. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works. Deposits in the Replacement Account shall be made quarterly from revenue in the amount of \$4,400.00 annually, as shown on Exhibit A on file at City Hall.

99.05 YEAR-END BALANCES. Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Moneys which have been transferred from other sources to meet temporary shortages in the Operation, Maintenance and Replacement Fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge shall be adjusted such that the transferred moneys will be returned to their respective accounts within the fiscal year following the fiscal year in which the moneys were borrowed.

99.06 CHARGES BASED ON USAGE. Each user shall pay for the services provided by the City based on the use of the treatment works as determined by water meters acceptable to the City and as described and set forth below with rates to be effective July 01, 2021. Sewer rates shall increase 2% per year on July 1, 2021 and each July 1st thereafter:

1. Minimum Charge – \$30.60 bi-monthly for first 4,000 gallons for all users.
2. Additional Gallon Charge – \$8.16 per each, 1,000 gallons or fraction thereafter for all users.
3. An additional flat rate fee of \$35.00 bi-month will be included on each sewer billing effective July 01, 2019.

(Section 99.06 – Ord. 2021-2 – May 21 Supp.)

99.07 RESPONSIBILITY FOR INCREASED COSTS. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works shall pay for such increased costs. The charge to each such user shall be as determined by the responsible plant operating personnel and approved by the Council.

99.08 APPLICATION. The user charge rates established in this chapter apply to all residential contributors, whether residential, commercial, industrial, agricultural or other type of user of the City's treatment works, regardless of their location.

99.09 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.

99.10 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 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 [1])

99.11 REVIEW OF USER CHARGE SYSTEM. The City shall review the user charge system every two years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

99.12 NOTIFICATION OF RATE CHANGE. The City will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance including replacement of the treatment works.

99.13 SEWER RENTAL EXEMPTION. A property owner with an existing water service account may apply to the Clerk for a second meter to measure water use which does not discharge into the City's sanitary sewer system or require treatment at the sewage treatment plant, such as irrigation, air conditioning, swimming pools or the like. The meter will be provided for the use of the property owner, upon payment of a non-refundable second meter fee, but will remain the property of the City. A second meter, like the primary meter, must conform to the specifications established by the Superintendent and must be inspected and approved by the Superintendent after installation and before use. All water measured through the second meter is exempt from the sewer rental rate. The City shall have the right to inspect these meters without advance notice to the property owner to determine if they conform with City specifications. A second meter shall not be removed temporarily from service during winter months. To remove a second meter properly, the plumbing must be physically restored so that no jumper may be installed.

99.14 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

99.15 PRIORITY. By enacting Ordinance No. 1998-4, codified by this chapter, the City and its contributors agree that the charges established herein have priority over any terms and

conditions of agreements or contracts between the City and users which are inconsistent with the requirements of Section 204(b)(1)(A) of the Clean Water Act and corresponding regulations.

[The next page is 401]

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 Prohibited

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

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris 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.

(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including two separate dwelling units.

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, rubber or items composed of rubber, and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

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.

(IAC, 567-100.2)

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.

(IAC, 567-100.2)

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.

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 PROHIBITED. No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain any open fire, including burn barrels, except that the following shall be permitted:

1. Open burning of the following types may be permitted, upon receiving an open burning permit from the City and signed approved of the Lone Tree Fire Department, and payment of a fee as set by resolution of the Council.
 - A. Ceremonial or Controlled Bonfires. Ceremonial or controlled bonfires may be permitted.
 - B. Disaster Rubbish. The open burning of rubbish, including landscape waste may be permitted for the duration of a disaster period in cases where the City Council declares a disaster exists.
 - C. Prescribed Agricultural Burns. The open burning of fields may be permitted if necessary for the maintenance of native prairie grass.
 - D. Training Fires. Fires set for the purpose of bona fide instruction and training of public, institutional or industrial employees in the methods of fire fighting.
2. Open burning for the primary purpose of outdoor cooking or campfires is permitted without obtaining an open burning permit. Combustion materials for campfires and cooking fires should be charcoal briquettes or untreated, clean wood. Fires must be attended at all times.

A violation of this section may be prosecuted as a misdemeanor or a municipal infraction.

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 on the premises or placed in degradable containers and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps. Trees and brush limbs

measuring less than four inches in diameter, together with other brush, must be securely tied in bundles not larger than 48 inches long and 18 inches in diameter when not placed in degradable containers. The weight of any individual bundle shall not exceed 60 pounds.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.09 WASTE STORAGE CONTAINERS. 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.

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.

[The next page is 411]

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fee. The fee for solid waste collection and disposal service, used or available, is \$13.50 per two-month billing for each residential premises. The fee will be waived for new dwelling construction, not previously occupied, until the dwelling is occupied.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

[The next page is 421]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted

110.02 Mains and Pipes; Indemnification

110.03 Excavations

110.04 Construction and Maintenance

110.05 Service Requirements

110.06 Nonexclusive

110.07 Term of Franchise

110.08 Amendments

110.01 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right, franchise and privilege for the term of 25 years from and after the passage, adoption, approval, and acceptance of the ordinance codified by this chapter,[†] to lay down, maintain, and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The term “gas” as used in this franchise shall be construed to mean natural gas only.

110.02 MAINS AND PIPES; INDEMNIFICATION. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a

[†] **EDITOR’S NOTE:** Ordinance No. 2010-5 adopting a gas franchise for the City was passed and adopted by the Council on July 12, 2010.

precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

110.05 SERVICE REQUIREMENTS. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.06 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

110.07 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of 25 years from the after its acceptance by the Company, as herein provided.

110.08 AMENDMENTS. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified, or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

[The next page is 445]

CHAPTER 115

CEMETERY

115.01 Definition
115.02 Trusteeship
115.03 Cemetery Maintenance
115.04 Records
115.05 Sale of Interment Rights

115.06 Establishment of Trust Fund
115.07 Perpetual Care Registry
115.08 Rules and Regulations
115.09 Animals Prohibited

115.01 DEFINITION. The term “cemetery” means the Lone Tree Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

(Code of Iowa, Sec. 523I.502)

115.03 CEMETERY MAINTENANCE. The Public Works Foreman shall be in charge of the care and maintenance of the cemetery and 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 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.

115.05 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 the Iowa Cemetery

Act, including the amount or percentage of money to be placed in the perpetual care cemetery fund.

(Code of Iowa, Sec. 523I.310)

115.06 ESTABLISHMENT OF TRUST FUND. A perpetual trust is hereby established for the Lone Tree Cemetery in accordance with Chapter 5231 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 interment space/plot within the cemetery. The fund shall be administered in accordance with the purposes and provisions of Chapter 5231 of the *Code of Iowa*.

115.07 PERPETUAL CARE REGISTRY. The cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirements of the Iowa Cemetery Act, including the amounts deposited in the perpetual care cemetery fund.

115.08 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. 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)

115.09 ANIMALS PROHIBITED. No dog or other domestic animal, with the exception of seeing eye dogs, are permitted in the municipal cemetery unless confined inside a vehicle.

[The next page is 465]

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the peace officer, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a liquor license or retail wine or beer permit and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class

of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

(Code of Iowa, Sec. 123.49[2b] & 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

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

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.

o o o o o o o o o

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. 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 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.
1. 5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Section 121.07 – Ord. 2020-3 – Oct. 20 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

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)

CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Revocation of License
122.02 Definitions	122.11 Hearing
122.03 License Required	122.12 Record and Determination
122.04 Application for License	122.13 Appeal
122.05 Bond Required	122.14 Effect of Revocation
122.06 License Issued	122.15 Rebates
122.07 Display of License	122.16 License Exemptions
122.08 License Not Transferable	122.17 Charitable and Nonprofit Organizations
122.09 Denial	122.18 Renewals

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 shall be set by resolution of the Council, and shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 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*.

122.06 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. Each license shall clearly state the time period for which issued and no license shall be issued for a period in excess of 180 days.

122.07 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.

122.08 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.

122.09 DENIAL. Any person aggrieved by the action of the Clerk in the denial of a license shall have the right of appeal to the Council. Such appeal shall be taken by filing with the Council a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the petitioner therefor in the same manner as provided for notice of hearing upon revocation. The decision and order of the Council on such appeal shall be final and conclusive.

122.10 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.

122.11 HEARING. The Council 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 Council may proceed to a determination of the complaint.

122.12 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.

122.13 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.

122.14 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.

122.15 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

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 local School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.17 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04. 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 122.13 of this chapter.

122.18 RENEWALS. Within the last 10 days of the period of any previous license, an application for renewal of such license and accompanying payment of the renewal fee, as set by resolution of the Council, shall be made to the Clerk. No such single period of renewal shall exceed the period of the original license.

o o o o o o o o o

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. Buildings of less than 100 square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Building Official, 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 in an amount set 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 485]

CHAPTER 124

JUNK DEALERS AND PAWNBROKERS

124.01 Definitions
124.02 License Required
124.03 Fees
124.04 Issuance
124.05 Required Records

124.06 Purchases from Minors
124.07 Prohibited Actions and Restrictions – Junk Dealers
124.08 Prohibited Actions and Restrictions – Pawnbrokers
124.09 Revocation of License

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

1. “Junk dealer” means every person who conducts or carries on a junk shop, junk yard or who buys, sells, or deals in junk, old iron, old copper, old brass, old lead or any old metal, scrap metal or old or discarded machinery, old rope or cordage, rags, paper and paper stock, old bottles, old cans or tinware, old clothes, old furniture, carpets and hangings, old or discarded plumbing, or electrical material or fixtures, and old or discarded hardware or glass, old, discarded and secondhand articles or any article or thing usually bought, sold or dealt in junk shops. Such term includes all persons who carry on such business at shops, yards or stores and any person who by advertisement, sign or otherwise holds himself or herself out as a junk dealer, or dealer in old or discarded metals, machinery, rags, paper stock and the like.
2. “Pawnbroker” means every person who conducts or carries on a store, shop or other place of business wherein secondhand goods of any description are bought and sold, and who buys or receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale, or who buys such property subject to the right of repurchase or redemption.

124.02 LICENSE REQUIRED. No person shall engage in or carry on the business of a junk dealer or pawnbroker within the limits of the City without first procuring a license therefor. Any person conducting several or separate places of business, as defined herein, shall procure a license for each place, but the proprietor’s license shall be sufficient for all clerks, agents or employees employed at or in connection with the place named in the license. A written application for the license shall be filed with the Clerk and shall contain such information as required by the City.

124.03 FEES. The license fee for a junk dealer or pawnbroker is as set by resolution of the Council.

124.04 ISSUANCE. Upon receiving the license fee for the license required by this chapter, the Clerk shall issue to the person applying therefor a license, to be known as a “junk dealer or pawnbroker license,” which shall state the name and place of residence of the person licensed, the business transacted, the place where it is to be carried on, and the dates of issuance and the expiration thereof.

124.05 REQUIRED RECORDS.

1. Junk Dealers. Every junk dealer shall keep a book in which the following data is accurately and intelligently entered in the English language at the time of purchasing or receiving each load of junk:

- A. The name of the person from whom the article was received or purchased and said person's place of residence, showing street and number where possible;
- B. A description of the junk purchased or received;
- C. The weight or quantity of such junk and the amount paid for it;
- D. The day and hour of each transaction.

Said records shall be at all times open to the examination of any peace officer of the City, County or State.

2. Pawnbrokers. Every pawnbroker shall keep a book in which shall be accurately and intelligently entered, in the English language, at the time of purchasing or receiving each article, the following data:

- A. The name of the person from whom the article was received or purchased and said person's place of residence showing street and number where possible.
- B. A detailed description of each article.
- C. A statement giving the nature of the transaction and whether received in purchase or as security.
- D. The weight or quantity of each article and the amount paid for or loaned for each article.
- E. The day and hour of each transaction.
- F. The time when and the person to whom the article was disposed of or the person who redeemed the same.

Such records shall be at all times open to the examination of any peace officer of the City, County or State.

124.06 PURCHASES FROM MINORS. No junk dealer or pawnbroker shall purchase or receive in any manner any personal property from any minor without first receiving the consent in writing from the parents or guardian of such minor. Such writing shall be retained for 30 days and shall be open to the examination by any peace officer of the City or County.

124.07 PROHIBITED ACTIONS AND RESTRICTIONS - JUNK DEALERS. No junk dealer shall:

1. Sell or otherwise dispose of, melt or destroy any article until 48 hours after filing with the Clerk the report of purchasing or receiving the same, without obtaining from the Clerk a written permit to do so.
2. Conceal, secrete or destroy for the purpose of concealing, any article purchased or received by the dealer for the purpose of preventing identification thereof by any officer or any person claiming the same.
3. Refuse, resist or attempt to prevent any sheriff, deputy sheriff or City officer from making examination, with or without warrant, of the premises occupied by such junk dealer, for the purpose of discovering stolen property.
4. Sell, melt, break up or otherwise dispose of any article which the dealer has reason to believe has been stolen or which is adversely claimed by any person or which

the dealer has been notified not to sell or otherwise dispose of by any sheriff, deputy sheriff or City officer, without first obtaining a permit in writing from the Clerk.

124.08 PROHIBITED ACTIONS AND RESTRICTIONS - PAWNBROKERS. No pawnbroker shall:

1. Change an article of jewelry in its form or alter or mutilate it in any way within the time fixed for sale or redemption.
2. Conceal, secrete or destroy for the purpose of concealing any article purchased or received by the pawnbroker for the purpose of preventing identification thereof by any officer or any person claiming to own the same.
3. Sell or otherwise dispose of any article during the time any person has the right to buy back or redeem the same.
4. Refuse, resist or attempt to prevent any sheriff, deputy sheriff or City officer from making examination, with or without warrant, of the premises occupied by such pawnbroker for the purpose of discovering stolen property.
5. Sell or permit to be redeemed or otherwise dispose of any article which the pawnbroker has reason to believe has been stolen or which is adversely claimed by any person or which the pawnbroker has been notified not to sell or release or otherwise dispose of by any sheriff, deputy sheriff or City officer, without first obtaining a permit in writing from the Clerk.

All articles of clothing taken in pawn or purchased outright shall be held in the same condition in which they were received for 15 days following, and during such period such articles shall not be cleaned, repaired, dyed or altered in any manner whatsoever.

124.09 REVOCATION OF LICENSE. Any license may be suspended or revoked by the Mayor, upon approval thereof by the Council, if the license holder is conducting the business or profession so licensed in any manner contrary to the State laws or this Code of Ordinances.

[The next page is 495]

CHAPTER 126

SEXUALLY ORIENTED BUSINESSES

126.01 Purpose and Intent	126.14 Additional Regulations for Adult Motels
126.02 Definitions	126.15 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos
126.03 Classification and Standards of Conduct and Operation	126.16 Exterior Portions of Sexually Oriented Businesses
126.04 Permit Required	126.17 Signage
126.05 Issuance of Permit	126.18 Persons Younger Than Eighteen Prohibited
126.06 Fees	126.19 Massages or Baths Administered by Person of Opposite Sex
126.07 Inspection	126.20 Consumption of Alcoholic Beverages Prohibited
126.08 Expiration of Permit	126.21 Separation of Entertainers and Customers
126.09 Suspension	126.22 Notices
126.10 Revocation	126.23 Injunction
126.11 Transfer of Permit	126.24 Exemptions
126.12 Location Restrictions	126.25 Penalty Provision
126.13 Nonconforming Uses	

126.01 PURPOSE AND INTENT. It is the purpose of this chapter to regulate sexually oriented businesses and related activities 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 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.

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

1. “Administrative Officer” means the officer as stated in Section 165.05 of this Code of Ordinances.
2. “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.
3. “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. A principal business purpose need not be a primary use of an establishment, so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

4. “Adult cabaret” means a commercial establishment that 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; or
 - D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
5. “Adult motel” means a hotel, motel or similar commercial establishment that:
 - A. Offers accommodation to the public for any form of consideration and 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 24 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 24 hours.
6. “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.
7. “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.
8. “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.

9. "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.
10. "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.
11. "Licensed day-care center" means a facility licensed by the State, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for children under 14 years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, of less than 24 hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.
12. "Permittee" means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.
13. "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.
14. "Nudity" or "state of nudity" means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
15. "Semi-nude" means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
16. "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.
17. "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.

18. "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.
19. "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 Paragraphs A through C above.
20. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent from the original premises.
21. "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.

126.03 CLASSIFICATION AND STANDARDS OF CONDUCT AND OPERATION.

1. Sexually oriented businesses are classified as follows:
 - 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.
2. The following standards of conduct must be adhered to by entertainers and employees of any sexually oriented business while on the premises:
 - A. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area. No payment or gratuity is allowed to any entertainer for any unlawful act as described by this chapter.

- B. No employee or entertainer shall perform:
 - (1) Any specified sexual activities; or
 - (2) The displaying of any specified anatomical area.
- C. No employee or entertainer shall be unclothed or in less than opaque and complete attire, costume or clothing as described in Paragraph A of this subsection.
- D. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.
- E. No entertainer shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is in such attire, costume or clothing to expose to view any specified anatomical area or while performing any entertainment.
- F. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this chapter.
- G. No entertainer shall receive any payment or gratuity from any customer for any act prohibited by this chapter.
- 3. At any sexually oriented business, the following are required:
 - A. A sign, on which upper-case letters are at least two inches high and lower-case letters are at least one inch high, shall be conspicuously displayed in the common area at the principal entrance and shall read as follows:

*THIS ADULT ENTERTAINMENT BUSINESS
IS REGULATED BY THE CITY OF LONE TREE, IOWA.
ENTERTAINERS ARE:*

- 1. *Not permitted to engage in any type of sexual conduct on the premises or in prostitution;*
- 2. *Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals.*
- 3. *Not permitted to receive any payment or gratuity from any customer.*
- B. Neither entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.
- C. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

126.04 PERMIT REQUIRED.

1. It is unlawful for a person to operate a sexually oriented business without a valid permit issued by the City. The Mayor shall be authorized to sign and validate said permit only after said permit is given approval by the City Council. Such approval shall be granted only after hearing the recommendation, which shall be recorded in the official Council meeting minutes, of both the Clerk and the Administrative Officer, as to the completion of all required paperwork and inspections.
2. An application for a permit must be made on a form provided by the City. 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, Administrative Officer, City Clerk and other City officials, as designed by the City.
4. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit 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 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 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.
6. Applications for a permit, whether original or renewal, must be made to the office of the City Clerk by the intended operator of the enterprise. Applications must be submitted by hand delivery to the City Clerk during regular working hours. Application forms shall be supplied by the City. The intended operator shall be required to give the following information on the application form:
 - A. The name, street address (and mailing address if different) and Iowa driver's license number of the intended operator;
 - B. The name and street address (and mailing address if different) of the owner;
 - C. The name under which the establishment is to be operated and a general description of the services to be provided;
 - D. The telephone number of the establishment;
 - E. The address and legal description of the tract of land on which the establishment is to be located;
 - F. If the establishment is in operation, the date on which the owner acquiring the establishment began operations as a sexually oriented business at the location for which the permit is sought; and

G. If the establishment is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than 10 days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.

H. Statement that the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five years immediately preceding the application, or has not been convicted of a misdemeanor or released from confinement for conviction of a misdemeanor, whichever event is later, within two years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Code of Iowa, Federal law, or the statutes of any other state, or controlled substance or illegal drugs or narcotics offenses, as defined in the Code of Iowa, Federal law or the statutes of any other state, or has not been convicted of a municipal ordinance violation or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution or the possession or sale of controlled substances or illegal drugs or narcotics.

7. The application shall be accompanied by the following:

A. Payment of the application fee in full. Such payments shall be made in the form of a cashiers check.

B. If the establishment is an Iowa corporation, a certified copy of the Articles of Incorporation, together with all amendments thereto.

C. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in the State, together with all amendments thereto.

D. If the establishment is a partnership formed under the laws of the State, a certified copy of the certificate of partnership, together with all amendments thereto.

E. If the establishment is a foreign partnership, a certified copy of the certificate of partnership and the qualification documents, together with all amendments thereto.

F. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed.

G. If the persons identified as the fee owners of the tract of land in item F are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.

H. Any of items B through G above shall not be required for a renewal application if the applicant states that the documents previously furnished the

Clerk with the original application or previous renewals thereof remain correct and current.

8. The application shall contain a statement under oath that:
 - A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 - B. The applicant has read the provisions of this chapter.

The applicant shall sign and date this part of the application, to be witnessed by the Clerk or appointed designee as set out in Section 15.02(11) of this Code of Ordinances.

9. A separate application and permit shall be required for each sexually oriented business.

126.05 ISSUANCE OF PERMIT.

1. The City Council may approve the issuance of a permit to an applicant after receipt of the recommendations of both the City Clerk and Administrative Officer (such approval shall authorize the Mayor to sign and validate said permit), unless the Council 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, fees, charges or penalties assessed against said applicant or spouse or imposed in relation to a sexually oriented business.
 - C. An applicant has failed to provide information reasonably necessary for issuance of the permit 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 by the City to operate a sexually oriented business within the preceding 12 months, or residing with a person whose permit 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, Administrative Officer, City Clerk and other officials as designated by the City as being in compliance with applicable laws and ordinances.
 - F. The permit 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 annual permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date (one year from the date approved) and the address of the sexually oriented business. The permit 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, Administrative Officer, City Clerk and other officials as designated by the City shall complete their certification that the premises is in compliance or not in compliance and this certification or failure thereof shall be promptly presented to the Clerk and a copy thereof kept with the application.

4. In the event that the Council determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing, as set out in Section 126.22 of this chapter, stating the reasons for the denial of the application, within 15 days. The applicant may request, in writing, to postpone a vote on such application in order to make modifications necessary to comply with this chapter. Such time extension shall be no more than 10 days.

5. An applicant may appeal the decision of the Council regarding a denial to the Council by filing a written notice of appeal with the Clerk within 15 days after the applicant is given notice of the Council's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Administrative Officer, City Clerk and other officials designated by the City may submit a memorandum in response to the memorandum filed by the applicant on appeal to the Council. After reviewing such memoranda and the exhibits submitted to the Council, the Council shall vote either to uphold or overrule the decision. Such appeal and subsequent vote shall be taken within 40 calendar days after the date on which the Clerk receives the notice of appeal. A vote to reverse the previous decision of the Council (or Mayor) may be passed only by a vote of three-fourths or four of five Council members. However, all parties shall be required to comply with the Council's previous decision during the pendency of the appeal.

126.06 FEES. The annual fee for a sexually oriented business permit is \$2,500.00 and shall be made in the form of a cashiers check. This fee is to be used to pay for the cost of the administration and enforcement of this chapter and may be revised by resolution of the Council. This annual fee is non-transferable and non-refundable.

126.07 INSPECTION. An applicant or permittee shall permit representatives of the Police Department or other City or State department or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

126.08 EXPIRATION OF PERMIT.

1. Each permit 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 City Council denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. The applicant shall receive written notification of such denial, as set out in Section 126.05(4) of this chapter. Any applicant so denied a permit renewal may submit a written request of appeal to the office of the City Clerk as set out in Section 126.05(5) of this chapter. If, subsequent to the denial, the Council finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a new permit if at least 90 days has elapsed since the date the denial became final.

126.09 SUSPENSION. The Mayor may suspend a permit for a period not to exceed 30 days if it is determined that the permittee or an employee of a permittee has:

1. Violated or is not in compliance with any section of this chapter;
2. Become impaired or intoxicated through the use of alcoholic beverages or controlled substances 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.

Failure to correct the violation which resulted in the suspension shall result in an automatic revocation of the permit by the Mayor. Notice of any such suspension shall be issued in writing filed through the office of the City Clerk, as set out in Section 126.22 of this chapter. The procedure for appealing the suspension of a permit by the Mayor is set out in Section 126.05(5) of this chapter.

126.10 REVOCATION. Notice of any such revocation shall be issued in writing through the office of the City Clerk, as set out in Section 126.22 of this chapter.

1. The Mayor shall revoke a permit if a cause of suspension in Section 126.09 occurs and the permit has been suspended within the preceding 12 months.
2. The Mayor shall also revoke a permit if it is determined that:
 - A. A permittee gave false or misleading information in the material submitted during the application process.
 - B. A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.
 - C. A permittee or an employee has knowingly allowed prostitution on the premises.
 - D. A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.
 - E. A permittee 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 is delinquent in the payment to the City or State for any taxes or fees past due.
 - G. The owner or operator of the establishment knowingly allowed a person under 18 years of age to enter an establishment.
 - H. There was a change of owner or operator for which a new application recognizing the transfer was not filed within 45 days.
3. When the Mayor revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued a sexually oriented business permit for one year from the date revocation became effective. If, subsequent to revocation, the Mayor 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. Such permit shall only be granted by a vote of three-fourths or four of five Council members.

126.11 TRANSFER OF PERMIT. A permittee shall not transfer the permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

126.12 LOCATION RESTRICTIONS. Sexually oriented business shall be permitted in any C-2 zoned commercial district, provided that:

1. The sexually oriented business may not be operated within 1,000 feet of:
 - A. A church, synagogue or regular place of religious worship;
 - B. A public or private elementary or secondary school;
 - C. A boundary of any residence or residential district;
 - D. A public park;
 - E. A licensed day-care center; or
 - F. Another sexually oriented business.
2. A sexually oriented business may not be operated in the same building, structure or portion thereof, containing another sexually oriented business.
3. For the purpose of this section, 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, synagogue, regular place of worship or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district or residential lot, or licensed day-care center.
4. For purposes of Subsection 3 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.

126.13 NONCONFORMING USES.

1. Any business lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of the configuration requirements with regard to structure and location contained in 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, of a church, synagogue or regular place of religious worship, public or private elementary school or secondary school, licensed day-care center, public park, or residential district within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

126.14 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. It is unlawful if a person, 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, 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 Subsection 2 of this section, the term “rent” or “sub-rent” means the act of permitting a room to be occupied for any form of consideration.

126.15 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, 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 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 Administrative Officer 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 Administrative Officer.
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.

126.16 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.

1. It is unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2. It is unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

3. It is unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

A. The establishment is a part of a commercial multi-unit center.

B. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

C. Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

126.17 SIGNAGE.

1. Notwithstanding any other City ordinance, code or regulation to the contrary, it is unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.

2. Primary signs shall have no more than two display surfaces. Each such display surface shall:

A. Not contain any flashing lights.

B. Be a flat plane, rectangular in shape.

C. Not exceed 75 square feet in area.

- D. Not exceed 10 feet in height or 10 feet in length.
 - E. Must be attached or affixed to the building (not free standing).
3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
4. Each letter forming a word on a primary sign shall be of solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
5. Secondary signs shall have only one display surface. Such display surface shall:
- A. Be a flat plane, rectangular in shape.
 - B. Not exceed 20 square feet in area.
 - C. Not exceed five feet in height and four feet in width.
 - D. Be affixed or attached to any wall or door of the enterprise.
6. The provisions of Paragraph A of Subsection 2 and of Subsections 3 and 4 shall also apply to secondary signs.

126.18 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED.

1. It is unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of 18 years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:
- A. A valid operator's commercial operator's or chauffeur's driver's license; or
 - B. A valid personal identification certificate issued by the State reflecting that such person is 18 years of age or older.

126.19 MESSAGES OR BATHS ADMINISTERED BY PERSON OF OPPOSITE SEX.

It is unlawful for any establishment, regardless of whether it is a public or private facility, to operate a massage salon, massage parlor or any similar type of business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless licensed by the State of Iowa.

126.20 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED.

The permittee of a sexually oriented business shall not allow the possession or consumption on premises by any person of any alcoholic beverage, wine or beer. No person shall possess or consume any alcoholic beverage, wine or beer on the premises of any sexually oriented business.

126.21 SEPARATION OF ENTERTAINERS AND CUSTOMERS.

In the interest of safety, fire concerns, and order, entertainers performing semi-nude or revealing specified anatomical areas in an adult cabaret shall appear on a raised platform at least two feet above the

level of the ordinary floor level of the establishment, and be at least six feet apart from any customer.

126.22 NOTICES.

1. Any notice required or permitted to be given by the Council, Mayor, or other City office under this chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the City Clerk, or any notice of address change that has been received by the Clerk. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Administrative Officer or City Clerk shall cause it to be posted at the principal entrance to the establishment.
2. Any notice required or permitted to be given to the City Clerk by any person under this chapter shall not be deemed given until and unless it is received in the office of the City Clerk.
3. It is the duty of each owner who is designated on the permit application and each operator to furnish a notice to the City Clerk in writing of any change of residence or mailing address.

126.23 INJUNCTION. A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this chapter is subject to a suit for injunction as well as prosecution for criminal violations.

126.24 EXEMPTIONS. The provisions of this chapter shall not apply to a theatre, concert hall, art center, museum or similar establishment which is primarily devoted to the arts or theatrical performances.

126.25 PENALTY PROVISION. The City may elect, at its sole discretion, to prosecute any violation either as a simple misdemeanor or a municipal infraction.

[The next page is 525]

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 Placement of Obstructions |

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. Any work done shall be performed in such a manner as to cause the least possible interference with the movement of traffic. On main thoroughfares, there shall be at all times sufficient traffic lanes open to permit a substantially normal traffic flow. Unless this can be accomplished, the work shall be confined to the hours between 9:00 a.m. and 4:00 p.m. or between 12:00 midnight and 7:00 a.m. In the event the work is of an emergency nature, the Public Works Foreman may authorize work during other hours but shall assign law enforcement personnel to direct traffic.
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 Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

12. Permit Exemption. The provisions of this section do not apply to City departments or to persons performing work under a contract with the City but any such contract shall require a substantial compliance with the provisions of this section.

13. Contents. Permits issued under this section shall be executed in duplicate and shall show the work for which the same has been granted, the name of the person to whom the same is issued, the location of the premises, the purpose of the excavation and the time within which the work shall be commenced and completed.

14. Prior Violators. Any person who fails to comply with the terms and conditions of the permit authorized under this section or who violates the terms of this section shall not thereafter be granted another such permit without the prior approval of the Council.

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 property owner or person in possession to do or allow any of the following:

1. Remove from his or her property accumulations of snow and/or ice and to place such accumulations on the private property of another.
2. Remove from his or her property accumulations of snow and/or ice in such a way as to deposit such accumulations on public property or public right-of-way causing a traffic obstruction, sight obstruction, pedestrian obstruction, or any other such hazard or obstruction.
3. Remove from his or her property accumulations of snow and/or ice and to push, transport or carry such accumulations into, upon, or across a street or alley right-of-way for the purpose of depositing same on the other side of said street or alley right-of-way without the prior approval of the Superintendent of Streets. This provision does not apply to the hauling of snow and/or ice for deposit on private property with the consent of the owner thereof.

This section does not apply to or limit the normal snow plowing operations performed by the City, which operations are exempt from the application of this section.

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 PLACEMENT OF OBSTRUCTIONS.

1. Any person contemplating the erection or repairing of any building and desiring the use of the streets adjacent to such buildings, or any person desiring to place any other obstruction in a street shall make an application in writing to the Public Works Foreman specifying, in case of contemplated construction, the building to be erected and the lot on which it is to be erected, the amount of the street to be used, the use to which said person desires to put it, and the length of time for which said person desires to use such street, and agreeing in such application, in consideration of the privilege and benefit of such occupation, to the following:

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

- A. To protect the public from inconvenience and danger to traffic and travel by reason of such occupation of the street.
 - B. To place proper guards and signal lights about such portion of the street so used.
 - C. To hold the City harmless in respect to any damages which may result to any person or property by reason of such occupation.
2. Upon such proper application being made, the Public Works Foreman may issue to such person a permit to use such streets for the purpose set out in the application filed and for the time specified in such application, provided that at no time shall such occupation exceed one-third of the width of the street and that such material is placed as close to the curb as is practical and that no such occupation shall be for a period of time greater than four months except on written consent of the Council.
3. If the Public Works Foreman deems it to be proper, the applicant may be required to execute a bond to the City in a penal sum of not less than \$2,500.00, such bond to be executed with good and sufficient sureties and approved by the Council and the Public Works Foreman.
4. Any person using any of the streets of the City for the purpose contemplated in this section shall be required to clear away all materials or rubbish so deposited in the streets within 10 days of the final completion of the use necessitating the obstruction, and on failure to do so, the Public Works Foreman may order such material moved and the cost of such removal shall be paid by the person so using and occupying the streets.

o o o o o o o o o o

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Failure to Repair or Barricade
136.02 Definitions	136.12 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice, and Accumulations	136.13 Awnings
136.04 Property Owner's Responsibility for Maintenance	136.14 Encroaching Steps
136.05 City May Order Repairs	136.15 Openings and Enclosures
136.06 Sidewalk Construction Ordered	136.16 Fires or Fuel on Sidewalks
136.07 Permit Required	136.17 Defacing
136.08 Sidewalk Standards	136.18 Debris on Sidewalks
136.09 Inspection and Approval	136.19 Merchandise Display
136.10 Barricades and Warning Lights	136.20 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:
 - A. Vertical separations equal to three-fourths inch or more.
 - B. Horizontal separations equal to one 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 24 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. 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 & 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 & 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. The permit shall state the following:

1. That the person will comply with the ordinances of the City and with the specifications for sidewalks adopted by the City.
2. That the work will be done under the direction and approval of the City Engineer or Council designee.
3. When the work is to be commenced.
4. When the work is to be completed.

All permits for sidewalk improvements shall be issued in compliance with this chapter unless the Council passes a resolution specifically authorizing an exception. The City Engineer or Council designee may withhold the issuance of a permit for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements. The time of completion for the sidewalk improvements may be extended by the City Engineer or Council designee. All such permits shall be issued after payment of a fee as set by resolution of the Council. A copy of all permits and permit applications shall be filed and preserved in the office of the Clerk. Failure to make sidewalk improvements in conformity with the provisions of this chapter or failure to obtain a permit prior to undertaking sidewalk improvements shall constitute a simple misdemeanor. In addition, a Council designee shall serve notice to obtain a permit upon the property owner and upon the contractor doing work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five days after receipt of the permit. If the owner fails to comply with this notice, the City Engineer or Council designee shall have the work completed and the costs assessed to the property owner.

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.
 - D. Sidewalks shall extend along all property lines abutting street rights-of-way for the full length of said property lines. At corners and midblock sidewalk locations, sidewalks shall be extended to the street curb cut.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Contraction and Expansion Joints.
 - A. Contraction joints shall be spaced at a maximum of four feet center-to-center measured along the sidewalk centerline.
 - B. Expansion joints shall occur at all junctions of the sidewalk with driveways, alleys, back of curbs and any other existing concrete and shall be spaced at a maximum of 100 feet center measured along the sidewalk centerline.
12. Curb Drops. Curb drop at the street shall be constructed by saw cutting, removing the existing curb and matching sidewalk to street slab with cold joint.
13. 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 INSPECTION AND APPROVAL. The owner shall advise the Clerk immediately and arrange to have the forms for the concrete inspected prior to the installation of concrete. Final inspection of the work by the City Engineer or Council designee shall be made once the work has been completed. When the work does meet all requirements of this chapter or the permit, the City Engineer or Council designee shall indicate this on both copies of the permit or order that corrections be made.

136.10 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.

136.11 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.

136.12 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.

136.13 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.

136.14 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.

136.15 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.

136.16 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.

136.17 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)

136.18 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])

136.19 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.

136.20 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

[The next page is 539]

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.
(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.
(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.
(Code of Iowa, Sec. 174.15[2] & 364.7[3])

[illegible]

CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED. The 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

o o o o o o o o o o

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 Lone Tree, 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 565]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Building Official is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF LONE TREE, 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])

o o o o o o o o o o

CHAPTER 146

WATER WELL PROTECTION

146.01 Water System District

146.02 Prohibited Uses

146.01 WATER SYSTEM DISTRICT. For the purposes of carrying out the provisions of this chapter, all property located within the corporate boundaries of the City, together with any extraterritorial well site, conveyance, treatment facility, main, or water service connected to or in service for the Lone Street municipal water system, shall be designated the Lone Tree Water System District.

146.02 PROHIBITED USES. The following uses within the designated separation distances of the well site set out in the following Table A shall be deemed to constitute a nuisance and shall not be permitted in the Lone Tree Water System District.

TABLE A: SEPARATION DISTANCES

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well ¹	Shallow Well ¹
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface		
Sanitary and industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers and Drains²		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well ¹	Shallow Well ¹
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes ³	200	400
Other		
Cesspools and earth pit privies	200	400
Concrete vaults and septic tanks	100	200
Lagoons	400	1,000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1,000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
GHEX loop boreholes	200	200
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites ⁴	1,000	1,000

¹ Deep and shallow wells, as defined in IAC 567-40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least five feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

² The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

³ Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

⁴ 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.

[The next page is 585]

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.

o o o o o o o o o o

CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to Be Supervised

151.05 Disease Control

151.06 Inspection and Removal

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

1. “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.
2. “Superintendent” means the Public Works Foreman of the City.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees, bushes or shrubs on, or overhanging the street, or two feet into any alley right-of-way, trimmed so that all branches will be at least 13 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 30 days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Superintendent shall additionally remove, on order of the Council, any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

CHAPTER 152

KEY BOXES

152.01 Definitions

152.02 Type of Key Boxes

152.03 Contents of Key Box

152.04 Applicability of Types of Buildings or Structures

152.05 Security Caps

152.06 Locks

152.07 Key Maintenance

152.08 Compliance

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

1. “Fire Chief” is as defined in the bylaws of the Lone Tree Fire and Rescue Association.
2. “Fire Department Executive Committee” is as defined in the bylaws of the Lone Tree Fire and Rescue Association.
3. “Forcible entry” means the technique used by fire department personnel to gain access to a structure whose normal means of access is locked, blocked or nonexistent.
4. “Life-saving or fire-fighting purpose” means any atmosphere that poses an immediate hazard to life or produces immediate irreversible, debilitating effects on health.
5. “Multi-family residential building” is as defined by Chapter 165 of this Code of Ordinances.

152.02 TYPE OF KEY BOXES.

1. Supplier. All key boxes installed in the City are to be manufactured by the Knox Box Company.
2. System Codes. All key boxes are to be ordered with the Lone Tree Fire and Rescue system code on the order form. All key boxes in the City are to be keyed with the same code. All key boxes are to open with the same key.

152.03 CONTENTS OF KEY BOX. All rapid key boxes shall contain keys to all locked areas necessary to gain access as required by the Fire Chief. In addition, the Fire Chief may request a copy of floor plans to be maintained in the key box.

152.04 APPLICABILITY OF TYPES OF BUILDINGS OR STRUCTURES.

1. Fire Suppression and Standpipe Systems. Any building or structure subject to the terms of this chapter which contains an automatic fire suppression or standpipe system shall be equipped with a key box in a location, size and type as approved by the Lone Tree Fire and Rescue Executive Committee.
2. Automatic Alarm Systems. Any building or structure subject to the terms of this chapter which contains an automatic alarm system shall be equipped with a key box in a location, size and type as approved by the Lone Tree Fire and Rescue Executive Committee.
3. Multi-Family Residential. Any multi-family residential building or structure where immediate access would be necessary for life-saving or fire-fighting purposes,

as defined in Chapter 165 of this Code of Ordinances, which is subject to the terms of this chapter, shall be equipped with a key box in a location, size and type as approved by the Lone Tree Fire and Rescue Executive Committee.

4. **Businesses.** For any business building or structure where immediate access is necessary for life-saving or fire-fighting purposes, the Fire Chief is authorized to require a key box in a location, size and type as approved by the Lone Tree Fire and Rescue Executive Committee.

152.05 SECURITY CAPS. When a key box as required above is damaged by vandalism, the Fire Chief may require that a security cap be installed in a type as approved by the Lone Tree Fire and Rescue Executive Committee.

152.06 LOCKS. An approved lock shall be installed on gates or similar barriers and fire department connections when required by the Lone Tree Fire and Rescue Executive Committee.

152.07 KEY MAINTENANCE. The operator of the building shall immediately notify the Fire Chief and provide the new key when a lock is changed or re-keyed. The key to such lock shall be secured in the key box.

152.08 COMPLIANCE. Any building or structure subject to the terms of this chapter shall, within six months of written notice from the Fire Chief requiring a key box, install a key box.

[The next page is 615]

CHAPTER 155

BUILDING CODE

155.01 Construction Codes

155.02 Permit Required

155.01 CONSTRUCTION CODES. Pursuant to a 28E Agreement by and between the City and Johnson County, Chapter 8:6 – Building Code of the Code of Ordinances of Johnson County Unified Development Ordinances as it may be amended from time to time, is applicable to all construction within the City and shall be administered by the Johnson County Planning Development and Sustainability Department, except for the legal enforcement of violations thereof.

155.02 PERMIT REQUIRED. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure in the City or cause the same to be done without first obtaining a separate building permit for each such building or structure from the Johnson County Planning Development and Sustainability Department and unless such work is completed in accordance with this Construction Code.

(Ch. 155 – Ord. 2021-3 – Feb. 22 Supp.)

[The next page is 635]

CHAPTER 157

COMMUNICATIONS TOWERS AND ANTENNAS

157.01 Purpose and General Policy	157.08 Application Process
157.02 Definitions	157.09 Noise and Emission Standards
157.03 Local Regulation and Compliance with the Telecommunications Act of 1996	157.10 Placement of Facilities and Related Lease Fees
157.04 Lease Required	157.11 Abandonment
157.05 Fee Required	157.12 Termination
157.06 Limit on Term	157.13 Home Rule
157.07 Priorities and Placement Requirements	157.14 New Technologies

157.01 PURPOSE AND GENERAL POLICY. The Council finds that in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property, it is necessary for the City to establish uniform rules and policies. This chapter is to be interpreted in light of these findings for the benefit of the citizens of the City.

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

1. “Antenna” means a device, dish or array used to transmit or receive telecommunications signals.
2. “Communications tower” means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.
3. “Height” of a communications tower is the distance from the base of the tower to the top of the structure.
4. “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

157.03 LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location on City property for their communications towers and antennas.

1. To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.
2. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.
3. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort.

4. To assure revenues from site leases of City-owned and City-controlled land and structures reflects fair compensation for use of City property and administration of this chapter.

157.04 LEASE REQUIRED. No person or other entity shall use any public property without first obtaining a lease from the City.

157.05 FEE REQUIRED. No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property as determined by the City.

157.06 LIMIT ON TERM. No lease for the use of public property shall be granted for a term of more than 10 years.

157.07 PRIORITIES AND PLACEMENT REQUIREMENTS.

1. Priority. Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:

- A. All functions of the City.
- B. Public safety agencies that are not a part of the City, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the City.
- C. Other governmental agencies for uses which are not related to public safety.
- D. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.

2. Placement. The placement of communications antennas or towers on City-owned property must comply with the following requirements:

- A. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.
- B. The antenna or tower will have no adverse impact on surrounding private property.
- C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fee shall be established by the Council (Section 157.10) and shall reflect potential expenses and risks to the City and other appropriate factors.
- D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.
- E. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.

- F. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense.
- G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antenna or tower.
- H. The user must obtain all necessary land use approval.
- I. The applicant will cooperate with the City's objective to promote collocations and thus limit the number of separate antenna sites requested.

157.08 APPLICATION PROCESS.

1. All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the City Clerk a completed application accompanied by a fee as set by resolution of the Council and the following documents, if applicable:

- A. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.
- B. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. A site plan is not required if the antenna is to be mounted on an approved existing structure.
- C. A current map or update for an existing map on file showing locations of applicant's antennas, facilities, existing towers and proposed towers which are reflected in public records, serving any property within the City.
- D. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222, latest revision, standards.
- E. Identification of the owners of all antennas and equipment to be located on the site.
- F. Written authorization from the site owner for the application.
- G. Evidence that a valid FCC license for the proposed activity has been issued.
- H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
- I. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.
- J. Additional information, as required, to determine that all applicable zoning regulations are met.
- K. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This set back requirement shall not apply to: (i) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City; or (ii) camouflage antennas that are mounted

to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure.

2. Applicant must also show evidence that all of the following conditions which are applicable are met:

A. Applicant must show that the proposed communications tower, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.

B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations an applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.

C. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a nonresidential district for technical reasons.

D. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.

E. Applicant must provide the names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant: (i) made diligent but unsuccessful efforts for a minimum of 45 days prior to the submission of the application to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed tower site; or (ii) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or support structure within one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.

F. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.

G. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

H. All towers and communications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting

or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black.

I. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Clerk a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the City Attorney.

J. Land use regulations, visibility, fencing, screening, landscaping, parking access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower. The following height conditions apply:

(1) Residential Districts - Free-standing tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires special exception.

(2) Commercial Districts - Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.

(3) Industrial Districts - Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.

(4) Other Districts - Free-standing or guyed tower with height not exceeding 500 feet is a permitted conditional use; height exceeding 500 feet requires special exception.

K. A tower must be a minimum distance equal to one-half the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirements or 25 percent of the tower height, whichever is greater.

All responses to applications for siting of telecommunications towers and facilities shall be in writing and shall be made within 30 days after all application materials are received.

157.09 NOISE AND EMISSION STANDARDS.

1. Noise. No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 17360, except during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily.

2. Emissions. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

157.10 PLACEMENT OF FACILITIES AND RELATED LEASE FEES. The placement and maintenance of communications antennas or towers on City-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met.

1. Water Tower or Reservoir Sites. The City's water tower and reservoir represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of prime importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on water towers or reservoir sites will be allowed only when the following requirements are met:
 - A. The applicant must have written approval from the Public Works Director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.
 - B. There is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.
 - C. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City.
 - D. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower or reservoir.

Fees will be assessed for placing facilities on a City water tower.

2. Parks. The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in the following parks after the recommendation of the Park Board and approval of the Council.
 - A. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.
 - B. Commercial recreational areas and major ball fields.
 - C. Park maintenance facilities.

Fees will be assessed for placing facilities on park property.

157.11 ABANDONMENT. In the event the use of any communications tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Public Works Director and Mayor, who shall have the right to request documentation or affidavits from the communications tower owner or operator regarding the issue of tower usage. Upon such abandonment, the owner or operator of the tower shall have an additional 180 days within which to: (i) reactivate the use of the tower or transfer the tower to another owner or operator who makes actual use of the tower; or (ii) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception or variance approval for the tower shall automatically expire.

157.12 TERMINATION. The Council may terminate any lease if it is determined that any one of the following conditions exist.

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.

2. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
3. A user violates any of the standards in this chapter or the conditions attached to the City's lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

157.13 HOME RULE. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

157.14 NEW TECHNOLOGIES. Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the Council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.

[The next page is 665]

CHAPTER 165

ZONING REGULATIONS

165.01 Title and Purpose	165.16 R-1 Single-Family Residential District
165.02 Definitions	165.17 R-2 Two-Family Residential District
165.03 Changes and Amendments	165.18 R-3 Multi-Family Residential District
165.04 Application for Rezoning	165.19 R-4 Manufactured Housing District
165.05 Administrative Officer	165.20 A-1 Agricultural District
165.06 Interpretation of Provisions	165.21 C-1 Commercial District
165.07 Violations and Penalties	165.22 C-2 Commercial Business District
165.08 Board of Adjustment Created	165.23 M-1 Industrial District
165.09 Proceedings of Board	165.24 Sign Regulations
165.10 Hearings; Appeals; Notice	165.25 Fence and Hedge Regulations
165.11 Stay of Proceedings	165.26 Supplementary District Regulations
165.12 Powers and Duties of the Board	165.27 Application of District Regulations
165.13 Decisions of the Board; Appeals	165.28 Nonconforming Uses and Structures
165.14 Certificate of Occupancy	165.29 Permits and Fees
165.15 Establishment of Districts and Map	

165.01 TITLE AND PURPOSE. This chapter shall be known and may be cited as “The Zoning Ordinances of the City of Lone Tree, Iowa.” Generally. The provisions of this title are intended to implement the City of Lone Tree’s comprehensive plan in a manner that promotes the health, safety, order, convenience, prosperity, and general welfare of the citizens of Lone Tree. Specifically. The provisions of this title are specifically intended to:

1. Conserve and protect the value of the properties throughout the City;
2. Encourage the most appropriate use of land and foster convenient, compatible and efficient relationship among land uses;
3. Provide the opportunity for a variety of housing types to meet the needs of the City’s population;
4. Conserve and protect natural, scenic and historic resources;

165.02 DEFINITIONS. For use in this chapter, the following terms and words are defined:

1. “Accessory building” means a separate building devoted to an accessory use, or part of the main building devoted to an accessory use.
2. “Accessory use or structure” means a use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground (and serving a purpose customarily incidental to the use of the principal building or use of land) which is not used or intended to be used for living or sleeping by human occupants.
3. “Agricultural” means farms and general farming, including horticulture, floriculture, dairying, livestock and poultry raising, farm forestry and other similar enterprises or uses, but no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for the use and consumption of persons residing on the premises.
4. “Alley” means a public thoroughfare which affords only a secondary means of access to abutting property.

5. "Alternation, structural" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.
6. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath, lavatory, toilet and kitchen, located in a building in which there are three or more such rooms or suites.
7. "Apartment house" means a building arranged, intended or designated to be occupied by three or more families living independently of each other.
8. "Basement" means a story having part but not more than one-half of its height below grade. A basement is counted as a story for the purposes of height regulations.
9. "Bath" means a bathtub or shower stall connecting with both hot and cold water lines.
10. "Board" means the Board of Adjustment established in this chapter.
11. "Boarding house" means a building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three or more persons.
12. "Build" means to construct, assemble, erect, convert, enlarge, reconstruct or structurally alter a building or structure.
13. "Buildable width" means the width of lot left to be built upon after the side yards are provided.
14. "Building" means any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.
15. "Building alteration" means any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or in the exterior walls.
16. "Building, height of" means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between eaves and ridge of gable, hip and gambrel roofs.
17. "Building Inspector" or "Building Official" means the official designated by the Mayor to enforce this chapter.
18. "Cellar" means a story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
19. "Centerline" means a line halfway between the lines of the area under consideration.
20. "Clinic" means an establishment occupied by one or more members of a healing profession.
21. "Commission" means the Planning and Zoning Commission of the City.
22. "District" means a section or sections of the City included within the residential, commercial or industrial districts.
23. "Dwelling" or "dwelling unit" means any building or portion thereof which is designed for and used exclusively for residential purposes, and which includes a bath, lavatory, toilet and kitchen.

24. “Dwelling, multiple” means a building designed for or occupied exclusively by more than two families.
25. “Dwelling, single-family” means a building designed for or occupied by one family, containing one dwelling unit.
26. “Dwelling, two-family” means a building containing two separate dwelling units.
27. “Enlargement” means increasing the square footage of a building.
28. “Family” means one or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from a group occupying a boarding house, lodging house or hotel, as herein defined.
29. “Farm” means an area which is used for the growing of the usual farm products such as vegetables, fruits and grains 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 area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses are secondary to that of the normal farming activities and such accessory uses do not include the feeding of garbage or offal to swine or other animals.
30. “Filling station” means any building or premises used for the dispensing, sale, or offering for sale at retail of any motor vehicle fuel or oil. When the dispensing, sale, or offering for sale is incidental to the conduct of a public garage, the premises is classified as a public garage.
- 30A. “First story” means the story of the building which is in reasonably close proximity to the grade at the front of the building. *(Ord. 2023-1 – Dec. 23 Supp.)*
31. “Floor area” means the square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. It does not include porches, garages, or the space in the basement or cellar which is used for storage or incidental uses.
32. “Frontage” means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
33. “Garage, private” means an accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle of not more than two-ton capacity.
34. “Garage, public” means a building or a portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
35. “Garage, storage” means a building or portion thereof designed or used exclusively for term storage by prearrangement of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuel and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold.

36. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.
37. "High rise apartment house" or "apartment hotel" means a hotel apartment exceeding three stories or 45 feet in height.
38. "Home occupation" means an occupation or a profession which:
- A. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit.
 - B. Is carried on by a member of the family residing in the dwelling unit.
 - C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
 - D. Does not employ any person who does not reside in the main building.
 - E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
 - F. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare.
 - G. Has no exterior sign other than as may be required by other laws or ordinances, which sign shall not be greater than three square feet in area.
39. "Hotel" means a dwelling, which may or may not contain living units, occupied by more than 20 persons in which lodging, with or without meals, is offered to the public for compensation.
40. "Hotel apartment" means a multiple dwelling under resident supervision which maintains an entry lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, such as drug store, barber shop, cosmetologist, cigar stand, or news stand, when such uses are located entirely within the building with no entrance from the street or visible from any sidewalk and having no sign or display visible from outside the building indicating the existence of such use.
41. "Institution" means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.
42. "Junk yard" means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, stored or abandoned, baled or packed, disassembled or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building.
43. "Kennel" means an establishment where six or more dogs are boarded, shown, traded, or displayed for compensation or where dogs are cared for, bred, or raised for commercial purposes.
44. "Kitchen" means a habitable room used or intended to be used for cooking or the preparation of meals.

45. “Kitchen sink” means a basin for washing utensils used for cooking, eating and drinking, located in a kitchen and connected to both hot and cold water lines.
46. “Lavatory” means a hand-washing basin which is connected to both hot and cold water lines, which is separate and distinct from a kitchen sink.
47. “Living unit” means the room or rooms occupied by a family, provided that a living unit must include a kitchen, bath, lavatory, and toilet.
48. “Loading space” means a space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having minimum dimension of 12 by 35 feet and vertical clearance of at least 14 feet.
49. “Lodging house” means a dwelling containing not more than one living unit, where lodging with or without meals is provided for compensation to five or more persons, but not more than 30 persons.
50. “Lot” means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot are designated as its lot lines.
51. “Lot, corner” means a lot abutting upon two or more streets at their intersection.
52. “Lot, depth of” means the mean horizontal distance between the front and rear lot lines.
53. “Lot, double frontage” means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
54. “Lot frontage” means the width of a lot measured along a street.
55. “Lot, interior” means a lot other than a corner lot.
56. “Lot lines” means the lines bounding a lot as defined herein:
- A. Front Lot Line: In the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, “front lot line” means that line separating said lot from that street which is designated as the front street in the plat and in the application for a zoning compliance permit.
 - B. Rear Lot Line: That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than 10 feet long farthest from the lot line and wholly within the lot.
 - C. Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
57. “Lot of record” means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder.
58. “Lot, reversed corner” means a corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.
59. “Lot width” means the width of a lot measured at the building line and at right angles to its depth.
60. “Main building” means the building occupied by the primary use.

61. “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.

(Code of Iowa, Sec. 435.1)

62. “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.

(Code of Iowa, Sec. 435.1)

63. “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 a combination of any such homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available. The term “mobile home park” is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The mobile home park shall meet the requirements of any zoning regulations that are in effect.

(Code of Iowa, Sec. 435.1)

64. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures, and must display the seal issued by the State Building Code Commissioner.

(Code of Iowa, Sec. 435.1)

65. “Motel” means a building or group of attached or detached buildings containing individual sleeping or living units in which lodging is offered to the public for compensation. The term “motel” includes auto court and motor hotel.

66. “Motor vehicle” means every vehicle which is self-propelled.

67. “Nonconforming building” means a building or portion thereof that does not conform to the provisions of this chapter relative to height, bulk, area or yards for the district in which it is located.

68. “Nonconforming use” means any existing lawful use of a building or land that does not conform with the requirements of this chapter prior to its enactment or the effective date of any amendment thereto.

69. “Nursing home” means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept and provided with food, or shelter and care, for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

70. “Office building” means a building designed for or used as the offices of professional, commercial, industrial, religious, institutional, public or semi-public persons or organizations, provided that no goods, wares, or merchandise is prepared on the premises, except that a portion of an office building may be occupied as a drug store,

barber shop, cosmetologist shop, cigar stand, or news stand, when any such use is located entirely within the building with no entrance from the street, is not visible from any sidewalk and has no sign or display visible from the outside of the building indicating the existence of such use.

71. “Owner” means the person who holds the fee simple title to the property and the person or persons who have acquired any interest in the property by contract of purchase or otherwise.

72. “Parking space” means a surfaced area, enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than 180 square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

73. “Place” means an open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.

74. “Premises” means the land, together with any building or structures thereon.

75. “Principal use” means the primary use of the premises or the primary use of the main building.

76. “Public dump grounds” means an area owned or operated by and through the City for disposal of waste material and related material.

77. “Remodel or repair” means any change in a building which is not a building alteration or enlargement.

78. “Roomer” means an occupant of a rooming house or rooming unit who is not a member of the family of the rooming house operator. A roomer also means an occupant of a dwelling unit who is not a member of the family occupying the dwelling unit.

79. “Rooming house” means any dwelling, or that part of any dwelling, containing one or more rooming units in which space is let by the owner or operator to four or more roomers.

80. “Rooming unit” means any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used primarily for living and sleeping but not for cooking. A “rooming unit” shall have bath and toilet facilities available for the exclusive use of the occupants or for communal use and, in addition, the occupants may have access to a communal kitchen and/or dining room.

81. “Safety easement” consists of the area of the public right-of-way between the lot line and the curb line, or if the street has no curb, the edge of street surface.

82. “Salvage, junk, wrecked automobile” means a motor vehicle or portion thereof which does not have all of the following items for a period of thirty 30 consecutive days:

- A. Two current and valid license plates attached as and where required; and
- B. An operable engine; and
- C. Four mounted inflated tires.

83. “Separate tract” means a parcel of land or a group of contiguous parcels of land under one ownership prior to the enactment of this chapter.

84. “Sign” means any structure or part thereof or device attached thereto or painted, or represented thereon, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. The word “sign” includes the word “billboard” but does not include the flag, pennant, or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious, or like campaign, drive, movement or event.

85. “Special truck” means a motor truck or truck tractor not used for hire with a gross weight registration of six through 32 tons used by a person engaged in farming to transport commodities produced only by the owner, or to transport commodities purchased by the owner for use in the owner’s own farming operation or occasional use for charitable purposes. “Special truck” also means a motor truck or truck tractor not used for hire with a gross weight registration of six through 32 tons used by a person engaged in farming who assists another person engaged in farming through an exchange of services. A “special truck” does not include a truck tractor operated more than 7,500 miles annually.

86. “Story” means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

87. “Story, half” means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker and family, or by a family occupying the floor immediately below it, is deemed a full story.

88. “Street” means a public or private thoroughfare which affords the principal means of access to abutting property.

89. “Structure” means anything constructed or erected, the use of which requires more or less permanent location on the ground, including but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts and pergolas.

90. “Toilet” means a water closet, with a bowl and trap made in one piece, which is of such shape and form and which holds a sufficient quantity of water so that no fecal matter will collect on the surface of the bowl and which is equipped with a flushing rim or flushing rims.

91. “Trailer camp” or “tourist camp” means an area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

92. “Travel trailer” or “camping trailer” means a 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 to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight feet in width and any length provided its gross weight does not exceed 4,500 pounds, which is the manufacturer’s shipping or the actual weight of the vehicle fully equipped, or any

weight, provided its over-all length does not exceed 28 feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes and not used as a place of permanent habitation. If any such vehicle is used in the State as a place of human habitation for more than 90 days in any 12-month period, it shall be classified as a mobile home, regardless of the size and weight limitation provided herein. This definition also includes house cars and camp cars having motive power and designated for temporary occupancy as herein defined.

93. “Variance” means a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are: (i) undue hardship; (ii) unique circumstances; and (iii) applying to property. A variance is not justified unless all three elements are present in the case.

94. “Yard” means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from 30 inches above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the minimum horizontal distance between the lot lines and the main building shall be used. A roof overhang up to three feet may project into a required yard.

95. “Yard, front” means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projection thereof, other than the projection of the usual uncovered steps, uncovered balconies, or uncovered porches. On corner lots, the front yard shall be considered as parallel to all streets upon which the lot has any dimension, even though this may be more than one street. The front yard shall not be deemed to apply to any alley or legally vacated street.

96. “Yard line, front” means a line parallel to the street and as far back from the street as required in this chapter. The terms “front yard line” and “building line” are synonymous.

97. “Yard line, rear” means a line parallel to the rear lot line and as far back from the rear lot line as required by this chapter.

98. “Yard, rear” means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard is in the rear of the front yard.

99. “Yard, side” means a yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereto.

165.03 CHANGES AND AMENDMENTS. The regulations imposed and the districts created by this chapter may be amended from time to time by the Council, but no such amendments shall be made without public hearing prior thereto in the Council and after a report has been made upon the amendment by the Commission. At least one notice of the time and place of such hearing shall be published not less than seven or more than 20 days prior to the date of hearing in a newspaper having a general circulation in the City. In case the Commission

does not approve the change, or, in the case of a protest filed with the Council against such change signed by the owners of 20 percent or more either of the area of the 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 therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendment shall not be passed except by the favorable vote of three-fourths of all the members of the Council.

165.04 APPLICATION FOR REZONING. An application for rezoning shall contain the following items:

1. The legal description and local address of the property.
2. The present zoning classification and the zoning classification requested for the property.
3. The existing use and proposed use of the property.
4. The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
6. A plat showing the locations, dimensions, and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.

Before any action is taken upon an application, the applicant shall pay the Administrative Officer the fees as set by resolution of the Council to cover the approximate cost of the procedures and said officer shall forthwith pay over this amount to the credit of the general revenue fund of the City. The failure to approve the change shall not be construed as any reason for refunding the fee to the applicant.

165.05 ADMINISTRATIVE OFFICER. An Administrative Officer designated by the Council shall administer and enforce this chapter. In the absence of any such designee, the Clerk shall administer this chapter. Said officer may be provided with the assistance of such other persons as the Council may direct. If the Administrative Officer finds that any of the provisions of this chapter are being violated, said officer 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 Administrative Officer shall order discontinuance 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 insure compliance with or to prevent violation of its provisions. Appeals from any decision of the Administrative Officer may be taken to the Board of Adjustment.

165.06 INTERPRETATION OF PROVISIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

(Code of Iowa, Sec. 414.21)

165.07 VIOLATION AND PENALTIES. Any person who willfully violates or fails to initiate action to comply with the provisions of this chapter within 15 days of notice of a violation by the Administrative Officer is guilty of a misdemeanor and upon conviction shall be subject to punishment as provided in this Code of Ordinances and shall pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues shall constitute a separate offense. The owners or tenants of any building, structure, land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the City may, in addition to other remedies, institute injunction, mandamus or other appropriate lawful action necessary to prevent, correct or abate such violations.

(Code of Iowa, Sec. 414.20)

165.08 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby established. The Board shall consist of five members to be appointed by the Council for staggered terms of five years. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member.

(Code of Iowa, Sec. 414.7 and 414.8)

165.09 PROCEEDINGS OF THE BOARD. The Board shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

(Code of Iowa, Sec. 414.9)

165.10 HEARINGS; APPEALS; NOTICE. Appeals to the Board concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by a decision of the Administrative Officer. Such appeals should be taken within a reasonable time not to exceed 60 days by filing with the Administrative Officer and with the Board a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board shall fix a reasonable time for the hearing of appeal, give public notices 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 attorney. A fee as set by resolution of the Council shall be paid to the Administrative Officer at the time the notice of appeal is filed, which the Administrative Officer shall forthwith pay over to the credit of the general revenue fund of the City.

(Code of Iowa, Sec. 414.10)

165.11 STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer from whom the appeal is taken certifies to the Board after the notice of appeal is filed with the Administrative Officer, that by reason of facts stated in the certificate, a stay would, in the opinion of the Administrative Officer, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by

a restraining order which may be granted by the Board or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.

(Code of Iowa, Sec. 414.11)

165.12 POWERS AND DUTIES OF THE BOARD. The Board shall have the following powers and duties:

1. Administration Review. To hear and decide appeals where it is alleged that there is error in order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this chapter.
2. Special Exceptions; Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; 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:
 - A. A written application for a 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.
 - B. Notice shall be given not less than four or more than 20 days in advance of the public hearing by publication in a newspaper of general circulation in the City.
 - C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
 - D. 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 these regulations. Violation 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 shall 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.

3. Variances; Conditions Governing Application; Procedures. 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 the 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 a variance is submitted along with a fee as set by resolution of the Council to cover costs. The application must demonstrate:
 - (1) That 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) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) That the special conditions and circumstances do not result from the actions of the applicant.

(4) That 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 land, structures or buildings in other districts shall be considered grounds for issuance of a variance.

B. Notice of public hearing shall be given as in Subsection 2(B) above.

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 Subsection 3(A) 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, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

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. Violations 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.

(Code of Iowa, Sec. 414.4 and 414.12)

165.13 DECISIONS OF THE BOARD; APPEALS. 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 as ought to be made and to that end shall have powers of the Administrative Officer 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 Administrative Officer, or to decide in favor of the applicant on any matter upon which it is authorized by this chapter to render a decision. Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board may seek review of such decision by a court of record in the manner provided by the laws of the State and particularly by Chapter 414, *Code of Iowa*.

165.14 CERTIFICATE OF OCCUPANCY. Subsequent to the effective date of the ordinance codified in this chapter, no change in the use or occupancy of land or any change in

use or occupancy in an existing building shall be made, nor shall any new building be used or occupied for any purpose other than a farming use until a certificate of occupancy has been issued by the Administrative Officer. Every certificate of occupancy shall state that the new use or occupancy complies with all provisions of this chapter.

165.15 ESTABLISHMENT OF DISTRICTS AND MAP.

1. Official Zoning Map. The City is hereby divided into districts which are designated as follows:

- R-1 - - Single-Family Residential
- R-2 - - Two-Family Residential
- R-3 - - Multi-Family Residential
- R-4 - - Mobile Home
- A-1 - - Agricultural
- C-1 - - Commercial
- C-2 - - Commercial Business
- M-1 - - Industrial

The locations and boundaries of these districts are shown on the official zoning map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be a part of this chapter. The official zoning map shall be identified by the signature of the Mayor, attested by the Clerk, under the following statement:

This is to certify that this is the Official Zoning Map referred to in Section 165.15 of the Code of Ordinances of the City of Lone Tree, Iowa.”

The official zoning map is on file in the office of the Clerk and is the final authority as to the current zoning status of land, water areas, buildings and other structures in the City.

2. Changes in Official Zoning Map. No changes in the official zoning map shall be made except as may be required by ordinances amending the official zoning map. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, together with the signature of the Mayor approving such change in the official zoning map. Any unauthorized change of any kind whatsoever in the official zoning map by any person or persons shall constitute a violation of this chapter. (*See Editor’s Note at the end of this chapter for ordinances amending the zoning map.*)

3. Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(Code of Iowa, Sec. 414.4)

- A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City limits shall be construed as following City limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

F. Boundaries indicated of features indicated in shall be so construed, indicated on the official by the scale of the map.

G. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by subsections A through F above, the Board of Adjustment shall interpret the district boundaries.

o o o o o o o o o o

165.16 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT. The R-1 District is intended to establish single-family home neighborhoods.

1. Permitted Principal Uses and Structures.
 - A. Public and semi-public parks, libraries, playgrounds, museums, and public community buildings owned or operated by public agencies.
 - B. Public schools, elementary, junior high and high, or private schools having a curriculum similar to public elementary or high schools.
 - C. Churches or temples.
 - D. Child care facilities, pre-kindergartens, kindergartens and other private or special schools where at least 100 square feet of open play space is provided for each child enrolled.
2. Permitted Accessory Uses and Structures.
 - A. Private garages.
 - B. Home occupations.
 - C. Private swimming pools, tennis courts, garden houses, pergolas, ornamental gates, barbecue ovens, fireplaces and similar uses customarily accessory to family uses, and fallout shelter or blast shelters.
 - D. Private greenhouses not operated for commercial purposes.
 - E. Vegetable and flower gardens.
 - F. Accessory uses or structures clearly incidental to the permitted uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.
 - G. Keeping of small animals commonly housed in a dwelling but not for sale purposes; provided, however, this shall not affect farms of more than three acres where animals are housed in structures located more than 50 feet from property lines.
 - H. Temporary buildings used in conjunction with construction work, provided that such buildings are removed upon completion of the construction work.
 - I. Storage of wood, lumber, and other material where the land occupied by such storage is confined to one location with a maximum area of 100 square feet, provided that there are at least eight inches of free air space under such storage.
3. Accessory Buildings.
 - A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:

- (1) Accessory buildings may be located in a rear yard but may not occupy more than 30 percent of a rear yard.
 - (2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the centerline of front street line.
 - (3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.
 - (4) On corner lots the minimum lot buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.
4. Special Exceptions Allowed.
 - A. Public utilities.
 - B. Swimming pools, golf, courses and country clubs, except miniature courses or driving ranges operated for a profit.
 - C. Row crops and special truck farming on land that is zoned residential but not yet platted may qualify for a special exception under the provisions of Section 165.12. The use is limited to row crops and special truck farming. Livestock of any kind is expressly prohibited. A special exception may be granted for a period of time as approved by the Board of Adjustment and is subject to any other conditions established under the provisions of Subsection 165.12(2).
5. Minimum Lot Areas and Width.
 - A. Single-family dwellings minimum area: 7,200 square feet, with a minimum frontage of 70 feet, except those lots platted prior to 1962, in which case the minimum frontage shall be 50 feet and the minimum area shall be 6,000 square feet, notwithstanding the provisions of Section 165.28(2)(B) of this chapter.
 - B. Single-family dwellings minimum area located within a cul-de-sac: 7,200 square feet, with a minimum frontage of 60 feet at the property lot line and 70 feet at the setback line.
6. Minimum Yard Requirements.
 - A. Dwellings: front – 25 feet; rear – 25 feet; side – 8 feet.
 - B. General regulations for yards:
 - (1) In all zones on lots fronting on two nonintersecting streets, a front yard must be provided on both streets.
 - (2) On corner lots there must be a front yard on both streets.
 - (3) Where a frontage is divided among the districts with different front yard requirements, the deepest front yard shall apply to the entire frontage.
 - (4) Those parts of existing buildings that violate these yard regulations may be repaired and remodeled but not reconstructed or structurally altered.

- C. Separate Yards, Open Space and Off-Street Parking Required. No part 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 be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.
 - D. Minimum Yards and Lot Areas May not Be Reduced. No yard or lot existing at the time of passage of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of such ordinance shall meet at least the minimum requirements established by this chapter.
 - E. Height, Density or Yards Shall not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required or in any other manner contrary to the provisions of this chapter.
 - F. Exceptions to Yard Regulations. See Supplementary District Regulations.
7. Maximum Height.
- A. The maximum height of structures in the R-1 Residential District shall be three stories or 35 feet.
 - B. Height Regulation Exception. The height limitations contained in this section do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing or other structures placed above the roof level and not intended for human occupancy.
8. Minimum Off-Street Parking and Loading Space.
- A. Dwellings: two spaces for each dwelling unit.
 - B. Church or temple: one space for each six seats of average seating in the main auditorium.
 - C. Country club or golf club: six spaces for each hole.
 - D. Schools and public buildings: one space for each classroom or office room plus one space for each 10 seats of average seating in the main auditorium, stadium, or place of public assembly.
 - E. Parking space for any use specifically permitted in a residence district may be provided on a lot within 300 feet of that use.
 - F. Existing buildings not complying with off-street parking requirements may be remodeled, repaired, and structurally altered but any enlargement must provide the required parking spaces for such enlargement.

o o o o o o o o o o

165.17 R-2 TWO-FAMILY RESIDENTIAL DISTRICT. The R-2 District is intended and designed to provide for low density residential areas with single-family duplex units located on a common boundary line.

1. Permitted Principal Uses and Structures.
 - A. Any use permitted in the R-1 District.
 - B. Two-family dwellings, leasing of rooms by not more than five persons not members of the family residing in the dwelling unit.
 - C. Separate or divided ownership of each single-family unit of a two-family dwelling unit subject to and conditioned upon compliance with the zero lot line requirement.
2. Permitted Accessory Uses and Structures.
 - A. All uses and structures permitted under the R-1 District.
 - B. Storage garages and parking lots.
3. Accessory Buildings.
 - A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:
 - (1) Accessory buildings may be located in a rear yard but may not occupy more than 30 percent of a rear yard.
 - (2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the front street line.
 - (3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.
 - (4) On corner lots the minimum buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.
4. Special Exceptions Allowed.
 - A. Same as other exceptions permitted in the R-1 District.
 - B. Zero Lot Line Requirements. Separate or divided ownership of each single-family unit of a two-family dwelling unit, provided the following requirements are met:
 - (1) The lot or parcel of real estate being divided into two parcels allowing separate ownership thereof must originally meet all of the requirements for uses permitted in an R-2 District.
 - (2) A two-family dwelling must be in existence or will be constructed thereon consisting of two attached dwelling units with a single-family unit being located on either side of the common boundary

line with the common wall between them and with each unit having a separate access and utility service.

(3) The lot lines for each two-unit family dwelling must have a standard fire wall between them that is built in such a manner as to allow no connections other than the wall itself between the units.

(4) Prior to division into two parcels there shall be recorded in the Johnson County Recorder's Office Restrictive and Protective Covenants providing that any owners of a unit of the two-unit family dwelling shall be jointly and severally liable and responsible for the maintenance and repair of the common wall as well as all other common aspects, including (but not limited to) utilities, water, sanitary sewer, storm sewer, easements, and driveways; up to the dividing line, separate water lines, and sewer lines will be furnished to each unit. The covenants after approval of the City shall be recorded in the office of the County Recorder and shall be a covenant running with the land.

(5) The two-family dwelling shall in all respects, other than the division thereof, be considered as any other two-family dwelling and meet all requirements pertaining thereto with express understanding that nothing herein shall be construed to allow the separate other use of one or both of the resulting two parcels of real estate in the event the joined two-family dwelling unit is partially or totally damaged or destroyed.

5. Minimum Lot Areas and Width. The following is the designated area requirements:

District	Frontage	Width	Area	Two-Family	Two-Unit Family
R-2	70 feet	70 feet	7,200 square feet	3,600 square feet each	3,600 square feet each

A. Two-Family Dwellings Minimum Area Located within a Cul-de-Sac. Frontage shall be 60 feet at the property lot line and 70 feet at the setback line. Width shall be 60 feet at the property lot line and 70 feet at the setback line.

6. Minimum Yard Requirements.

A. Dwellings: front - 25 feet; rear - 25 feet; side - 8 feet.

B. General regulations for yards:

(1) In all zones on lots fronting on two nonintersecting streets, a front yard must be provided on both streets.

(2) On corner lots there must be a front yard on both streets.

(3) Where a frontage is divided among the districts with different front yard requirements, the deepest front yard shall apply to the entire frontage.

(4) Those parts of existing buildings that violate these yard regulations may be repaired and remodeled but not reconstructed or structurally altered.

(5) In all R-2 Districts two-unit family dwelling units, only the side yard on each of the separate dwellings will be required, and no side yard will be required on the common lot line.

C. Separate Yards, Open Space and Off-Street Parking Required. No part 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 be included as part of a yard, open space, off-street parking, or loading space similarly required for any other building.

D. Minimum Yards and Lot Areas May not Be Reduced. No yard or lot existing at the time of passage of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of such ordinance shall meet at least the minimum requirements established by this chapter.

E. Height, Density or Yards Shall not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required or in any other manner contrary to the provisions of this chapter.

F. Exceptions to Yard Regulations. See Supplementary District Regulations.

7. Maximum Height.

A. Same as in R-1 District.

B. Height regulation exception – same as in R-1 District.

8. Minimum Off-Street Parking and Loading Space.

A. Dwellings: two spaces for each dwelling unit.

B. Public buildings: one space for each classroom or office room plus one space for each 10 seats in the main auditorium, stadium, or place of public assembly.

C. Parking space for any use specifically permitted in a residence district may be provided on a lot within 300 feet of that use.

D. Existing buildings not complying with off-street parking requirements may be remodeled, repaired and structurally altered but any enlargement must provide the required parking spaces for such enlargement.

o o o o o o o o o o

165.18 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT. The purpose of the R-3 District is to establish and preserve medium density residential districts, excluding uses which are not compatible with residential use but permitting certain nonresidential uses which are of particular convenience to the residents of the district.

1. Permitted Principal Uses and Structures.
 - A. Single-family dwellings.
 - B. Two-family dwellings.
 - C. Multi-family dwellings.
 - D. All uses and structures permitted in the R-1 District.
 - E. Religious, educational, non-profit charitable institutions.
 - F. Private child care facilities.
 - G. Hospitals and institutions except animal, criminal or mental hospitals.
 - H. Clinic, except animal clinics.
 - I. Nursing and custodial homes.
 - J. Lodging houses and boarding houses.
2. Permitted Accessory Uses and Structures.
 - A. All uses and structures permitted in the R-1 District.
 - B. Storage garages and parking lots.
3. Accessory Buildings.
 - A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:
 - (1) Accessory buildings may be located in a rear yard but may not occupy more than 30 percent of a rear yard.
 - (2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the front street line.
 - (3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.
 - (4) On corner lots the minimum buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.
4. Special Exceptions Allowed.
 - A. All other exceptions permitted under the R-1 District.
 - B. Hospitals or sanitariums.
 - C. The zero-lot line requirements set forth in the R-2 District.

5. Minimum Lot Areas and Width.
 - A. Single-family dwelling: area - 7,200 square feet; width - 70 feet. Single-family dwellings located within a cul-de-sac: 60 feet at the property lot line and 70 feet at the setback line.
 - B. Two-family dwelling: area - 7,200 square feet; width - 70 feet: Two-family dwellings located within a cul-de-sac – 60 feet at the property lot line and 70 feet at the setback line.
 - C. Multi-family dwelling: area - 6,000 square feet plus 1,500 per unit over one; width - 80 feet.
6. Minimum Yard Requirements.
 - A. Dwellings: front - 25 feet; rear - 25 feet; side-8 feet.
 - B. All other uses permitted in this section: front - 40 feet; rear - 40 feet; side - 20 feet; side street, corner lots - 25 feet.
 - C. General regulations for yards:
 - (1) In all zones on lots fronting on two nonintersecting streets a front yard must be provided on both streets.
 - (2) On corner lots in all districts there must be a front yard on both streets.
 - (3) Where a frontage is divided among the districts with different front yard requirements, the deepest front yard shall apply to the entire frontage.
 - (4) Those parts of existing buildings that violate these yard regulations may be repaired and remodeled but not reconstructed or structurally altered.
 - D. There may be two or more related multi-family, hotel, motel, or institutional buildings on a lot, provided that:
 - (1) The required yards shall be maintained around the group of buildings.
 - (2) Buildings shall be separated by a horizontal distance that is equal to the height of the highest building.
 - E. Separate Yards, Open Space and Off-Street Parking Required. No part 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 be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.
 - F. Minimum Yards and Lot Areas May not Be Reduced. No yard or lot existing at the time of passage of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of such ordinance shall meet at least the minimum requirements established by this chapter.
 - G. Height, Density or Yards Shall not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or

smaller rear yards, front yards, side yards or other open spaces, than herein required or in any other manner contrary to the provisions of this chapter.

H. Exceptions to Yard Regulations. See Supplementary District Regulations.

7. Maximum Height.

A. 3 stories or 45 feet.

B. Height regulation exception – same as in R-1 District.

8. Minimum Off-Street Parking and Loading Space.

A. Dwellings – two spaces for each dwelling unit plus one space for each rented room.

B. Other uses permitted – same as R-1 District.

C. Parking space for any use specifically permitted in a residence district may be provided on a lot within 300 feet of that use.

D. Existing buildings not complying with off-street parking requirements may be remodeled, repaired, and structurally altered, but any enlargement must provide the required parking spaces for such enlargement.

o o o o o o o o o o

165.19 R-4 MANUFACTURED HOUSING DISTRICT. The purpose of the R-4 District is to make provision for mobile homes in mobile home parks not subdivided into individual lots, in an appropriate, safe, sanitary and attractive environment.

1. Principal Permitted Uses and Structures.
 - A. Mobile homes when located in a mobile home park.
 - B. Public buildings, public and semi-public parks, playgrounds, or community buildings.
2. Permitted Accessory Uses and Structures.
 - A. All uses and structures permitted under R-1 District.
 - B. Coin-operated laundries intended for the use of the mobile home park residents.
 - C. Swimming pools, recreation buildings, playgrounds and similar uses intended for the use of mobile home park residents.
 - D. Sale of mobile homes, insurance related to mobile homes and other mobile home accessories. However, no person may store, repair, or maintain in inventory any manufactured or mobile home if it does not meet the standards necessary to remain as a permanent, habitable home in the R-4 District.
3. Accessory Buildings.
 - A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:
 - (1) Accessory buildings may be located in a rear yard but may not occupy more than 30 percent of a rear yard.
 - (2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the front street.
 - (3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.
 - (4) On corner lots the minimum buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.
4. Special Exceptions Allowed.
 - A. Public utilities.
5. Area Regulations.
 - A. Each home in this district must have a minimum dimension of 22 feet by 50 feet.
 - B. Each manufactured home shall be located on a lot having an area of at least 5,000 square feet.

6. Height Regulations.
 - A. Same as in R-1 District.
 - B. Height regulation exception – same as in R-1 District.
7. District Regulations.
 - A. Density is limited to nine mobile homes per acre.
 - B. No manufactured home shall be located within 15 feet of any other, within five feet of any driveway or parking space, within 25 feet of the right-of-way line of a street.
 - C. Each manufactured home must have an anchoring system or foundation that receives written approval from either a public building official or a State-certified manufactured housing setter that the home complies with State law.
 - D. All utility wires, pipes and tanks shall be underground.
 - E. Each mobile home park shall have an underground master television antenna system, and exterior television antennae shall not be permitted on individual mobile homes.
 - F. Each mobile home park shall contain one or more recreation areas totaling at least 300 square feet per mobile home. Streets, driveways, parking areas and buildings are not to be included in calculating the size of recreation areas.
 - G. A greenbelt, at least 25 feet in width, shall be located along all boundaries of each mobile home park, except where it is crossed by driveways. This area is not to be considered as recreational space as required by Subsection F.
 - H. Each mobile home park shall be graded and drained so that rain water will not stand in pools or puddles. It will be the responsibility of the developer to provide storm sewers.
 - I. If the parking of motor vehicles, boats, camping trailers, or recreational vehicles other than passenger automobiles and motorcycles is allowed, it shall be restricted to a common area surrounded, except at points of entry and exit, with a wood or masonry wall or fence or hedge at least eight feet high.
 - J. No mobile home shall be occupied unless it is supported on masonry blocks or jacks, connected to utilities, and provided with skirting, from the bottom of the walls to the ground, made of aluminum or other durable material. Tie downs are required as per State Code.
 - K. All minimum street widths in mobile home parks shall be as follows:
 - (1) No parking on street:

one-way	14 feet
two-way	20 feet
 - (2) Parallel parking on side:

one-way	20 feet
two-way	30 feet

- (3) Parallel parking on both sides:
- | | |
|---------|---------|
| one-way | 26 feet |
| two-way | 36 feet |

8. Conversion to Real Property. A mobile home, modular home or manufactured home which is located outside a 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:

A. Dealer's Stock. Mobile, modular or manufactured homes on private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

B. Existing Homes. A taxable mobile home, manufactured home or modular home which is located outside of a 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.

9. Minimum Off-Street Parking. Two concrete or asphalt off-street parking spaces for each dwelling unit.

o o o o o o o o o o

165.20 A-1 AGRICULTURAL DISTRICT. The A-1 District is intended to establish and preserve areas for agriculture, forestry, conservation, and such low intensity outdoor recreation uses as do not significantly change the natural character of the land or attract large numbers of people.

1. Permitted Principal Uses and Structures.
 - A. Agriculture, horticulture, dairy farming, poultry farming, general farming, livestock farming, truck gardening, and other agricultural activities.
 - B. Single-family dwellings.
 - C. Churches and temples.
 - D. Public or private schools, elementary, junior high, and high schools.
 - E. Public buildings, public and semi-public parks, playgrounds, or community buildings such as libraries, museums, and community centers.
 - F. Golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
2. Permitted Accessory Uses and Structures.
 - A. Private garages.
 - B. Farm buildings incidental to agricultural uses.
 - C. Private swimming pools.
 - D. Private greenhouses or plant nurseries not operated for commercial purposes.
 - E. Accessory uses or structures clearly incidental to the permitted uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership.
 - F. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Accessory Buildings.
 - A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:
 - (1) Accessory buildings may be located in rear yard but may not occupy more than 30 percent of a rear yard.
 - (2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the front street line.
 - (3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.

(4) On corner lots the minimum buildable width of 28 feet for main building is reduced to 22 feet for accessory buildings.

4. Special Exceptions.

- A. Public utilities.
- B. Roadside stand for sale of produce raised on the premises.
- C. Extraction of sand, gravel, topsoil or other natural resources provided the land is restored to a condition suitable for the other permitted uses of this district.
- D. Dog kennels and animal hospitals.
- E. Riding stables.
- F. Greenhouses and plant nurseries operated for commercial purposes.
- G. Recreational development for seasonal or temporary use.

5. Minimum Lot Areas and Width. Except as otherwise provided in this chapter, there shall be minimum lot frontage, minimum lot width, minimum lot area and minimum lot area per family as shown on the following tabulation:

Frontage	Width	Area	Single-Family	Two-Family	Multi-Family
70 feet	100 feet	20,000 square feet	20,000 square feet	N/A	N/A

6. Minimum Yard Requirements.

- A. Single-family dwellings: front - 25 feet; rear - 25 feet; 8 feet each side; corner lot - 25 feet.
- B. Other permissible uses under this section: front - 40 feet; rear - 40 feet; side - 20 feet; corner lot - 25 feet.
- C. General regulations for yards:
 - (1) In all zones on lots fronting on two nonintersecting streets, a front yard must be provided on both streets.
 - (2) On corner lots in all districts there must be a front yard on both streets.
 - (3) Where a frontage is divided among the districts with different front yard requirements, the deepest front yard shall apply to the entire frontage.
 - (4) Those parts of existing buildings that violate these yard regulations may be repaired and remodeled but not reconstructed or structurally altered.
- D. Separate Yards, Open Space and Off-Street Parking Required. No part 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 be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.

- E. Minimum Yards and Lot Areas May not Be Reduced. No yard or lot existing at the time of passage of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of such ordinance shall meet at least the minimum requirements established by this chapter.
 - F. Height, Density or Yards Shall not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required or in any other manner contrary to the provisions of this chapter.
 - G. Exceptions to Yard Regulations. See Supplementary District Regulations.
- 7. Maximum Height.
 - A. The maximum height of structures in the A-1 Agricultural District shall be three stories or 35 feet.
 - B. Height regulation exception – same as in R-1 District.
 - 8. Minimum Off-Street Parking and Loading Space.
 - A. Dwellings: two spaces for each dwelling unit.
 - B. Church or temple: one space for each six seats of average seating in the main auditorium.
 - C. Country club or golf club: six spaces for each hole.
 - D. Community center, library or museum: 10 spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet.
 - E. Schools and public buildings: one space for each classroom or office room plus one space for each 10 seats of average seating in the main auditorium, stadium, or place of public assembly.
 - F. Existing buildings not complying with off-street parking requirements may be remodeled, repaired, and structurally altered but any enlargement must provide the required parking spaces for such enlargement.
 - 9. Special Regulations. Provision must be made for disposal of manure and other organic wastes in such manner as to avoid pollution of ground water or any lake or stream.

o o o o o o o o o o

165.21 C-1 COMMERCIAL DISTRICT. The C-1 District is intended to establish and preserve a business district convenient and attractive for a wide range of retail uses and business, government and professional offices and places of amusement.

1. Permitted Principal Uses and Structures. Premises in the commercial zone shall be used for the following purposes only:

- A. Multi-family dwellings pursuant to Section 165.18, except that first story dwelling are prohibited. *(Ord. 2023-1 – Dec. 23 Supp.)*
- B. Bakery goods shop.
- C. Bank.
- D. Barbershop or beauty parlor.
- E. Book or stationery store.
- F. Commercial parking lots.
- G. Confectionery store.
- H. Custom dressmaking or millinery store.
- I. Dry goods or notions store.
- J. Drugstore.
- K. Florist or gift shop.
- L. Grocery, fruit or vegetable store.
- M. Hardware or electric appliance store.
- N. Jewelry store.
- O. Laundromat, coin operated.
- P. Meat market or delicatessen store.
- Q. Photographer.
- R. Shoe store.
- S. Store for collection and distribution of laundry and dry cleaning articles, the treatment, cleaning or processing of such articles.
- T. Apartment hotel.
- U. Office building.
- V. Custom tailor shop, clothing or wearing apparel shop.
- W. Restaurant, tea room, café or similar establishment where foods are prepared for the serving of meals to customers.
- X. Creameries.
- Y. Motels and hotels.
- Z. Sale of any goods and products at retail, including filling stations.
- AA. Electrical and educational research, development and service facilities including computer and data processing and related printing, warehousing, design, development, fabrication and assembling.

- BB. Animal hospitals and animal clinics where there are no open kennels.
 - CC. Commercial schools.
 - DD. Undertaking establishments.
 - EE. Public garages.
 - FF. Theaters.
 - GG. Shops for repair and servicing of bicycles, typewriters, electrical equipment and appliances, keys and similar articles.
 - HH. Dressmaking, millinery, tailoring, shoe repair, laundry, upholstering and dry cleaning establishments.
 - II. Print, furnace, heating, air conditioning, typewriter, sheet metal, plumbing and tire shops.
 - JJ. Implement shares.
 - KK. Any other use except those specifically confined to M-1 Industrial District, provided that such use complies with the performance standards set forth herein.
 - LL. Cemeteries.
2. Permitted Accessory Uses and Structures.
- A. Uses and structures clearly incidental to the permitted uses including dwellings for the owner or employees thereof, located on the premises.
 - B. Storage garages and parking lots.
 - C. Storage warehouses in conjunction with permitted principal uses.
 - D. There may also be a use of not to exceed 40 percent of the floor area for incidental storage.
 - E. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Accessory Buildings.
- A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:
 - (1) Accessory buildings may be located in a rear yard but may not occupy more than 30 percent of a rear yard.
 - (2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the front street.
 - (3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.

(4) On corner lots the minimum buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.

4. Special Exceptions.

- A. Carnivals.
- B. Circuses.
- C. Fairs.
- D. Road shows.
- E. Mortuary or funeral home.
- F. Cemetery or mausoleum.

G. Row crops and special truck farming on land that is zoned commercial but not yet platted may qualify for a special exception under the provisions of Section 165.12. The use is limited to row crops and special truck farming. Livestock of any kind is expressly prohibited. A special exception may be granted for a period of time as approved by the Board of Adjustment and is subject to any other conditions established under the provisions of Subsection 165.12(2).

5. Minimum Lot Area and Width. Except as otherwise provided in this chapter, there shall be minimum lot frontage, minimum lot width, minimum lot area and minimum lot area per family as shown on the following tabulation:

Frontage	Width	Area	Single-Family	Two-Family	Multi-Family
70 feet	80 feet	6,000 square feet	7,200 square feet	8,400 square feet	6,000 square feet plus 1,500 square feet per unit over one

6. Minimum Yard Requirements.

- A. Depth of front yard - none; width of side yard - none; depth of rear yard - 20 feet.
- B. No accessory building shall be erected in any required front or side yard and no separate accessory building shall be erected within five feet of any main buildings.
- C. General regulations for yards:
 - (1) In all zones on lots fronting on two nonintersecting streets, a front yard must be provided on both streets.
 - (2) On corner lots in all districts there must be a front yard on both streets.
 - (3) Where a frontage is divided among the districts with different front yard requirements, the deepest front yard shall apply to the entire frontage.

(4) Those parts of existing buildings that violate these yard regulations may be repaired and remodeled but not reconstructed or structurally altered.

D. There may be two or more related multi-family, hotel, motel or institutional buildings on a lot, provided that:

(1) The required yards shall be maintained around the group of buildings.

(2) Buildings shall be separated by a horizontal distance that is equal to the height of the highest building.

E. Separate Yards, Open Space and Off-Street Parking Required. No part 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 be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.

F. Minimum Yards and Lot Areas May not Be Reduced. No yard or lot existing at the time of passage of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of such ordinance shall meet at least the minimum requirements established by this chapter.

G. Height, Density or Yards Shall not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required or in any other manner contrary to the provisions of this chapter.

H. Exceptions to Yard Regulations. See Supplementary District Regulations.

7. Maximum Height.

A. The maximum height of structures in the C-1 Commercial District shall be four stories or 45 feet.

B. Height regulation exception - same as in R-1 District.

8. Minimum Off-Street Parking and Loading Space.

A. Parking:

(1) Dwellings: two spaces for each dwelling unit plus one space for each rented room.

(2) Churches, temples: one space for each six seats of average seating in the main auditorium.

(3) Schools and public buildings: one space for each classroom or office room plus one space for each 10 seats of average seating in the main auditorium, stadium, or place of public assembly.

(4) All other uses in commercial district: one parking space for each 500 square feet of floor area.

B. Off-street loading: one space for each 10,000 square feet of floor area or fraction thereof.

- C. Parking spaces may be provided on a separate lot if within 300 feet of the building, and two or more owners may join together in the provision of this parking.
- D. The storage of merchandise, materials, equipment, refuse containers, obsolete or junk vehicles, or the major repair of vehicles is prohibited in required off-street parking and loading spaces.
- E. Existing buildings not complying with off-street parking requirements may be remodeled, repaired and structurally altered but any enlargement must provide the required parking spaces for such enlargement.

o o o o o o o o o o

165.22 C-2 COMMERCIAL BUSINESS DISTRICT. The C-2 Commercial Business District is intended to establish and preserve a commercial business district convenient and attractive for a wide range of retail uses and businesses, places of amusement, adult entertainment and sexually oriented businesses, with special emphasis on the traveling and commuting public and the associated traffic volume.

1. Permitted Principal Uses and Structures. Premises in the C-2 Commercial Business District shall be used for the following purposes only:

- A. Adult entertainment establishments and sexually oriented businesses (as defined in Chapter 126).
- B. Animal hospitals and animal clinics where there are no open kennels.
- C. Auto body repair shops and tire shops.
- D. Bakery good shop.
- E. Bank.
- F. Barbershop or beauty parlor.
- G. Book or stationery store.
- H. Cemeteries or mausoleum.
- I. Clothing stores and wearing apparel stores.
- J. Commercial parking lots.
- K. Confectionary store.
- L. Construction, building, electrical and plumbing supply stores.
- M. Convenience stores and filling stations.
- N. Computer stores.
- O. Creameries.
- P. Custom dressmaking or millinery store.
- Q. Custom tailor shop.
- R. Dry cleaners or laundry service.
- S. Dry goods or notions store.
- T. Drugstore or pharmacy.
- U. Farm implement and farm supply stores.
- V. Florist or gift shop.
- W. Gas stations and filling stations.
- X. Green houses and landscaping supply stores.
- Y. Grocery, fruit or vegetable store.
- Z. Hardware or electrical appliance store.
- AA. Hotels and motels.
- BB. Jewelry store.

- CC. Laundromat, coin operated.
 - DD. Meat market or delicatessen store.
 - EE. Office building.
 - FF. Photographer.
 - GG. Public garages and parking lots.
 - HH. Repair shops, for the repair of bicycles, typewriters, electrical equipment and appliances, keys and similar articles.
 - II. Retail sales of general merchandise.
 - JJ. Restaurant, tea room, café or similar establishment where foods are prepared for the serving of meals to customers.
 - KK. Shoe stores and shoe repair.
 - LL. Theaters and movie houses.
 - MM. Truck terminals
 - NN. Undertaking establishments, funeral homes and mortuaries.
 - OO. Upholstering stores.
 - PP. Used car lots.
 - QQ. Bottling plant.
2. Permitted Accessory Uses and Structures.
- A. Uses and structures excluding dwellings that are clearly incidental to the permitted uses for the owner or employees thereof, located on the premises.
 - B. Storage garages and parking lots.
 - C. Storage warehouses.
 - D. There may also be a use of not to exceed 40 percent of the floor area for incidental storage.
 - E. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Accessory Buildings.
- A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:
 - (1) Accessory buildings may be located in a rear yard but may not occupy more than 30 percent of a rear yard.

(2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the front street.

(3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.

(4) On corner lots the minimum buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.

4. Special Exceptions.

A. Carnivals.

B. Circuses.

C. Fairs.

D. Road shows.

E. Row crops and special truck farming on land that is zoned commercial business district but not yet platted may qualify for a special exception under the provisions of Section 165.12. The use is limited to row crops and special truck farming. Livestock of any kind is expressly prohibited. A special exception may be granted for a period of time as approved by the Board of Adjustment and is subject to any other conditions established under the provisions of Subsection 165.12(2).

5. Minimum Lot Area and Width. Except as otherwise provided in this chapter, there shall be minimum lot frontage, minimum lot width, and minimum lot area as shown on the following tabulation:

Frontage	Width	Area	Single-Family	Two-Family	Multi-Family
200 feet	200 feet	87,000 square feet	not permitted in C-2 District		

6. Minimum Yard Requirements.

A. Depth of front yard – 25 feet; width of side yard – 25 feet; depth of rear yard - 25 feet.

B. No accessory building shall be erected in any required front or side yard and no separate accessory building shall be erected within five feet of any main building.

C. General regulations for yards:

(1) In all zones on lots fronting on two nonintersecting streets, a front yard must be provided on both streets.

(2) On corner lots in all districts there must be a front yard on both streets.

(3) Where a frontage is divided among the districts with different front yard requirements, the deepest front yard shall apply to the entire frontage.

(4) Those parts of existing buildings that violate these yard regulations may be repaired or remodeled but not reconstructed or structurally altered.

D. There may be two or more related hotel, motel, or institutional buildings on a lot, provided that:

(1) The required yards shall be maintained around the group of buildings.

(2) Buildings shall be separated by a horizontal distance that is equal to the height of the highest building.

E. Separate Yards, Open Space and Off-Street Parking Required. No part of a yard, or other open space, off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, off-street parking or loading space similarly required of any other building.

F. Minimum Yards and Lot Areas May not Be Reduced. No yard or lot existing at the time of the passage of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of such ordinance shall meet at least the minimum requirements established by this chapter.

G. Height, Density or Yards Shall not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to have a narrower or smaller rear yard, front yard, side yard or other open spaces, than herein required or in any other manner contrary to the provisions of this chapter.

7. Maximum Height.

A. The maximum height of structures in the C-2 Commercial Business District shall be four stories or 45 feet.

B. Height regulation exceptions are the same as those listed in R-1, Section 165.16(7)(B).

8. Minimum Off-Street Parking and Loading Space.

A. Parking:

(1) Gathering spaces – one space for each four seats of average seating in the auditorium, theater, stadium, movie house, dinner theater, comedy club, adult entertainment, sexually oriented businesses, and places of public assembly, plus one space for each four employees.

(2) Offices and hotels – one space for each office or room in an office building, hotel, motel, plus one space for each four employees.

(3) Gas stations, convenience stores – one space for each 500 square feet of floor area plus one space for each four employees.

(4) For all other uses in the C-2 Commercial Business District, one space for each 500 square feet of floor area, plus one space for each four employees.

- B. Loading:
- (1) Off-street loading – one for each 5,000 square feet of floor area or fraction thereof. If a single building contains more than one business or office, there shall be one loading space for each business or office.
 - (2) Gas stations, convenience stores – one space 12 by 50 feet for each 10,000 square feet of floor space or fraction thereof.
- C. Parking spaces may be provided on a separate lot if within 300 feet of the building and two more owners may join together in the provision of this parking.
- D. The storage of merchandise, materials, equipment, refuse containers, obsolete or junk vehicles or the major repair of vehicles is prohibited in required off-street parking and loading spaces.
- E. Existing buildings not complying with off-street parking requirements may be remodeled, repaired and structurally altered but any enlargement must provide the required parking spaces for such enlargement.

o o o o o o o o o o

165.23 M-1 INDUSTRIAL DISTRICT. The M-1 District is intended to establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provision for certain kinds of commercial uses which are necessary to service the immediate needs of people in these areas.

1. Permitted Principal Uses and Structures. Premises in the industrial zone shall be used for the following purposes only:

A. Auto wrecking, junk yards and similar salvage storage when enclosed within a tight, solid fence, no less than six feet in height or surrounded with a green belt planting strip not less than 20 feet in width and eight feet in height. All such storage shall be located not less than 30 feet from any street line and not less than 20 feet from any other lot line. The storage of rags, paper and similar combustible waste shall not be closer than 100 feet to any property line, unless enclosed in a masonry building of not less than four-hour fire resistive construction.

B. The bulk storage of oils, petroleum and similar inflammable liquids and chemicals when stored underground in tanks located no closer to any property line than the greatest depth to the bottom of such tanks or above ground in tanks located at least 150 feet from any property line.

C. The following uses, provided that a building or occupancy permit shall not be issued until and unless the location of such use has been approved by the Council. Before granting such separate approval, the Council shall refer applications for approval to the Fire Chief and the Commission for study, investigation and report. If no report is received in 45 days, the Council may assume approval of the application.

- (1) Acid manufacture.
- (2) Cement, lime, gypsum or plaster of Paris manufacture.
- (3) Chemical plants.
- (4) Distillation of bones.
- (5) Explosives manufacture or storage.
- (6) Fat rendering.
- (7) Fertilizer manufacturing.
- (8) Garbage, offal or dead animals, reduction or dumping.
- (9) Gas manufacture.
- (10) Glue manufacture.
- (11) Refining of petroleum and natural gas and their products.
- (12) Smelting of tin, copper, zinc, iron and other metallic ores.
- (13) Storage of radioactive material.
- (14) Stockyards or slaughter of animals.

2. Permitted Accessory Uses and Structures.

A. Any use or structure incidental to the permitted uses in this district.

- B. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
- 3. Accessory Buildings.
 - A. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five feet of any main buildings.
 - B. Accessory buildings may not be used for dwelling purposes.
 - C. Accessory buildings shall be located in accordance with the following rules:
 - (1) Accessory buildings may be located in a rear yard but may not occupy more than 30 percent of a rear yard.
 - (2) An accessory building more than 10 feet from a main building may be erected within two feet of a side or rear lot line but must be located at least 60 feet from the front street line.
 - (3) Where a garage is entered from an alley, it must be kept 10 feet from the alley line.
 - (4) On corner lots the minimum buildable width of 28 feet for main buildings is reduced to 22 feet for accessory buildings.
- 4. Special Exceptions. Uses which may be permitted as special exceptions in the M-1 Industrial District are:
 - A. Carnivals, circuses, fairs, road shows.
 - B. Fertilizer manufacture.
 - C. Junk yards including automobile wrecking and/or salvage.
 - D. Stockyards and/or sale barns and yards.
 - E. Explosive manufacture or storage.
 - F. Bulk storage of petroleum products and liquid fertilizers.
 - G. Row crops and special truck farming on land that is zoned industrial district but not yet platted may qualify for a special exception under the provisions of Section 165.12. The use is limited to row crops and special truck farming. Livestock of any kind is expressly prohibited. A special exception may be granted for a period of time as approved by the Board of Adjustment and is subject to any other conditions established under the provisions of Subsection 165.12(2).
- 5. Maximum Height.
 - A. The maximum height of structures in the M-1 Industrial District shall be 60 feet.
 - B. Height regulation exception - same as in R-1 District.

6. Minimum Off-Street Parking and Loading Space.
- A. Parking - warehousing, storage and manufacturing - one space for each employee on duty at any one time, plus one for each vehicle used by the industry.
- B. Off-street loading - one space, 50 feet by 12 feet, for each 20,000 square feet of floor area or fraction thereof.
- C. Existing buildings not complying with off-street parking requirements may be remodeled, repaired and structurally altered but any enlargement must provide the required parking spaces for such enlargement.
7. Performance Standards. The following performance standards shall be observed in the industrial zone:

A. Screening. A green belt planting strip consisting of evergreen ground cover with hardy shrubs shall be used to screen any commercial use and the open storage of any materials or equipment along the side or rear of any lot adjoining a residential district. Such planting strip shall be of sufficient width and density to provide an effective screening with shrubs not less than eight feet in height. In lieu thereof, a six-foot solid fence of masonry or heavy wood construction or other material approved by the Building Inspector may be used to screen said uses from any adjoining residential district.

B. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and, as measured at any property line, shall not exceed the following intensity in relation to sound frequency:

<u>Octave Band in Cycles Per Second</u>	<u>Intensity (Decibels)</u>
0 – 150	75
150 – 300	67
300 – 600	60
600 – 1200	55
1200 – 2400	50
2400 – 4800	43
Above 4800	40

Such sound levels shall be measured with a sound level meter and an octave band analyzer conforming with specifications of the American National Standards Institute.

C. Smoke. The emission of smoke by any use permitted shall be controlled so as to be less dark in shade than that designated as No. 2 on the Ringelmann Chart, published and used by the United States Bureau of Mines; provided, however, smoke of a density equal to that designated as No. 2 on the Ringelmann Chart may be permitted for not more than eight minutes during any 30-minute period and smoke of a density not exceeding that designated as No. 3 on the Ringelmann Chart may be permitted for not more than three minutes during any 30-minute period while starting or cleaning a fire.

D. Dust and Other Particulate Matter. For any use permitted, emission of dust, fly ash, and other particulate matter shall not exceed eighty-five hundredths of a pound per 1,000 pounds of flue gas, measured at a convenient point in the stack and under conditions not exceeding 50 percent of excess air. The amount of solids in such gases shall be determined according to the test

code for dust separating apparatus of the American Society of Mechanical Engineers, revised and amended to date.

E. Odor. The emission of odorous matter in such quantity as to be offensive at a point along any lot lines shall not be permitted in the Industrial District. In determining such quantities of offensive odors, Table III (Odor Thresholds) in Chapter 5 of the *Air Pollution Abatement Manual* (copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C.) shall be used as a guide.

F. Glare and Heat. Any operation producing intense heat and glare shall be conducted within an enclosed building or with other effective screening in such a manner as to be completely imperceptible from any point along the lot lines in the industrial zone.

G. Sewage Wastes. The following standards shall apply to sewage wastes at the point of discharge into the public sewer:

(1) Acidity or alkalinity shall be neutralized within an average pH range from 5.5 to 7.5 as a daily average on the volumetric basis, with a temporary variation of pH 4.5 to 10.0.

(2) Wastes shall contain no cyanides; no chlorinated solvents in excess of one-tenth ppm; no sulfur dioxide or nitrates in excess of 10 ppm; no chromates in excess of 25 ppm; no chlorine demand greater than 15 ppm; no phenols in excess of five-hundredths ppm; no grease or oil or any oily substance in excess of 100 ppm; nor shall such wastes contain any insoluble substance in excess of 10,000 ppm or exceeding a daily average of 500 ppm, or failing to pass a No. 8 standard sieve or having a dimension greater than one-half inch.

H. Storage. If a fence, as required in Subsection A of this section, is erected for the open storage of equipment and materials, such equipment and materials may be located to within 15 feet of such fence if the height of the equipment or material does not exceed the height of the fence. Equipment and materials exceeding the height of the fence or otherwise visible from the adjoining residential district shall not be located within 50 feet from the fence. If a planting strip is used to screen the area, the storage of materials shall not be permitted within 50 feet from the lot line of the adjacent residential district. The storage of such materials and equipment may be permitted when located at least 30 feet from any street right-of-way line and when in conformity with the above provisions, except that the storage of livestock feed, coal and similar materials shall not be closer than 300 feet to any residential district and shall be so handled as to effectively control dust, noise and odor. All combustible material shall be stored in such a way as to include, where necessary, access drives to permit free access of firefighting equipment. Open storage of junk waste products, salvaged or wrecked automobiles or parts thereof shall be confined to industrial zones and all the regulations of this chapter shall be applicable and nothing contained in this section shall be deemed to permit the open storage of such materials in any zone except industrial.

165.24 SIGN REGULATIONS. The following regulations shall be observed regarding signs:

1. Churches, public and semi-public buildings, hospitals and institutions in residential districts may have one bulletin board not more than 15 square feet in area.
2. Only those signs permitted in Subsection 1 above, temporary signs not more than 10 square feet pertaining to lease or sale of premises and nameplates when nonilluminated and not greater than three square feet are allowed in the residential districts.
3. In the commercial district, the total area of signs on a premises in square feet may not exceed the number of lineal feet of street frontage; and in the industrial district there may be two square feet of signs for each lineal foot of street frontage.

165.25 FENCE AND HEDGE REGULATIONS.

1. No fence more than 30 percent solid and no fence or planting more than three feet high above street level may be located within 30 feet of a street intersection. "Street intersection" means the intersection of street lines.
2. Except as provided in Subsection 1 of this section, fences less than four feet high may be located on any part of a lot.
3. Except as provided in Subsection 1 of this section, fences less than six feet high may be erected on any part of a lot that is as near back or further back from a street than the front of the main building.
4. Except as provided in Subsection 1 of this section, fences as required in Section 165.23(7) (Industrial Performance Standards) of this chapter, may be erected on any part of the lot.
5. Except as provided in Subsection 1 of this section, fences less than eight feet high may be erected on any part of a lot behind the main building.
6. Fences or hedges shall not exceed four feet in height in any required front yard and shall not exceed six feet in height in any required side yard, subject to the further restriction of Section 165.26(1) (Visibility at Intersections).

165.26 SUPPLEMENTARY DISTRICT REGULATIONS.

1. Visibility at Intersections. On a corner lot in an agricultural or residential district, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two and one-half feet and 10 feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by the right-of-way lines at such corner and a straight line joining such right-of-way lines at points which are 25 feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.
2. More Than One Principal Structure on a Lot. In any district, more than one principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard, and other requirements of this chapter are met for each structure as though it were on an individual lot.
3. Use of Public Right-of-Way. No portion of the public street or alley right-of-way shall be used or abutting use of land or structures for storage or display purposes,

or to provide any parking or loading space required by this chapter or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

4. Travel Trailers or Camping Trailers. Trailers occupied as a temporary place of residence shall be located only in an approved tourist camp or trailer camp, except that upon request the Board of Adjustment may approve a temporary, nonrenewable permit to locate and occupy, for a period not to exceed 30 days, such camping trailers on a lot with an existing single-family dwelling.

5. Proposed Use Not Covered in Regulations. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Commission for a recommendation as to the proper district in which such use should be permitted and the chapter appropriately amended for such proposed use.

6. Buildings to Have Access. Every building hereafter erected or structurally altered shall be on a lot having frontage on a public street.

7. Exceptions to Yard Regulations. The following exceptions to yard regulations may be made by the Board of Adjustment:

A. On separate tracts, the side yard may be reduced to 10 percent of the tract width, but not less than five feet in the residential districts and three feet in all other districts, except that this provision shall not apply to corner lots.

B. On separate tracts the rear yard may be reduced to 20 percent of the tract depth.

C. Where, on January 1, 1977, 40 percent or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner:

(1) Where the building farthest from the street provides a front yard not more than 10 feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.

(2) Where Subparagraph (1) is not the case and a lot is within 100 feet of a building on each side, then the front yard is the line drawn from the closest front corners of these two adjacent buildings.

(3) Where neither (1) nor (2) is the case and the lot is within 100 feet of an existing building on one side only, then the front yard is the same as the existing adjacent building.

D. Sills, belt courses, cornices, chimneys and ornamental features may project only two feet into a required yard.

E. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers and ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one-half feet when so placed as not to obstruct light and ventilation, may be permitted by the Building Inspector.

F. Open terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections are distant at least two feet from the adjacent lot line. A railing not more than 30 percent solid and not more than three feet high may be permitted around the terrace.

- G. No side yards are required for dwellings that are erected above commercial and industrial structures.
- H. In all new buildings, if side yards are provided where not required, they must be at least five feet wide.
- 8. Residential Dwelling Standards. All single-family dwelling units, other than those located in an R-4 District, must meet the following minimum standards:
 - A. A manufactured home serving as a dwelling must have dimensions of not less than 50 feet by 22 feet. Dimensions are established by measuring the original manufactured structure and without consideration of any later additions, such as porches or other site-built appendages.
 - B. There shall either be a continuous and complete permanent perimeter foundation of the main body or the foundation may be a slab-style foundation with a five-foot frost footing.
 - C. The main structure shall be permanently affixed to the foundation.
 - D. All single-family dwelling units must have a minimum of 1,100 square feet of floor space.
- 9. Use of Safety Easement. A person performing work in the area of the safety easement must obtain a permit from the City before work may begin.

165.27 APPLICATION OF DISTRICT REGULATIONS. The regulations of this chapter apply as follows:

- 1. Regulations to be Uniformly Applied. The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.
- 2. All Uses and Structures to Conform. No buildings, structures, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
- 3. Newly Annexed Areas. All territory which may hereafter be annexed to the City shall be classified in the R-1 Residential District until otherwise classified; provided, however, the Commission may recommend the appropriate district classification prior to annexation and after proper notice and public hearing, the territory upon annexation may be immediately so classified.

165.28 NONCONFORMING USES AND STRUCTURES.

- 1. Intent. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the ordinance codified in this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment.
 - A. It is the intent of this chapter to permit such nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities

shall not be enlarged upon, expanded, or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district.

B. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the ordinance codified in this chapter by attachment on a building or premises, of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

C. 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 ordinance codified herein and upon which actual building construction has been diligently carried on until completion of the building involved.

2. Nonconforming Lots of Record.

A. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance codified in this chapter, provided that no lot for residential use shall be less than 50 feet in width and 6,000 square feet in area. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance codified in this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

C. Vacant or unimproved lots which exist as separate tracts on the date of adoption of the ordinance from which this chapter is derived, and which have less area or width than above required may be used for one single-family dwelling or a permitted non-dwelling use provided the use and the building conform to all other requirements of this chapter for the district in which the separate tract is included. A high rise apartment house or apartment hotel shall not be subject to the minimum lot area or minimum lot area per family requirements of this chapter. Apartments over business buildings will not be subject to the minimum lot or area requirement.

3. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of the ordinance codified in this chapter, lawful use of land existed that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. Mobile homes shall be placed and occupied only in an approved mobile home park, or on a separate lot, where a mobile home was in place as of the date of the passage of the ordinance from which this chapter is derived, if it meets the yard and area requirements of this chapter for mobile home dwellings. Mobile homes existing within the corporate limits on the date of adoption of the ordinance from which this chapter is derived which do not meet these requirements are declared to be nonconforming uses of land and shall be permitted to continue to exist and be occupied in their present location until such use is discontinued for a period of one year or until the owner of the land shall voluntarily discontinue the use of the land as a mobile home site, whichever occurs first. An existing, nonconforming mobile home may be enlarged or added onto, provided such addition shall not project closer to any side or front property line than the required yards, nor closer than 10 feet to any principal building or rear property line. If an existing nonconforming mobile home is removed from its site, it shall either be relocated to an approved mobile home park or converted to real estate.

B. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater use of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this chapter.

C. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance codified in this chapter.

D. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

4. Nonconforming Structures. Where a lawful structure existed at the effective date of adoption or amendment of the ordinance codified in this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity.

B. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

C. In case any nonconforming building as to use or area requirements is destroyed by fire or other disaster or the building is purposely dismantled beyond the provisions for repair, remodeling or structural alteration as allowed in Section 165.27(5)(C), then the land site of the building is considered a vacant

or unimproved lot or a separate tract and the provisions of Section 165.27(2)(C) shall apply as of the date of the destruction of the building.

5. Nonconforming Uses of Structures. If a lawful use of a structure, or of structure and premises in combination, existed at the effective date of adoption or amendment of the ordinance codified in this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of such ordinance, but no such use shall be extended to occupy any land outside such building.

C. Any building that is in violation of designated area requirements or of designated yard requirements on the date this ordinance was adopted, may be repaired or remodeled, provided such repairs or changes do not create additional violations of any part of this chapter; and further, the building may be structurally altered for a permitted use of the district, provided such alterations do not create additional violations of any part of this chapter beyond those violations recognized as area requirements nonconforming on the date of adoption of the ordinance codified in this chapter.

D. If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

E. Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

F. When a nonconforming use of a structure or structure and premises in combination is discontinued for six consecutive months or for 18 months during any three-year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

G. Where nonconforming use status applies to structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

6. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10 percent of the current replacement value of the

building, provided that the cubic content of the building as it existed at the time of passage of the ordinance codified in this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

7. Uses Under Exception Provisions. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

165.28 PERMITS AND FEES.

1. Construction Permit. No buildings shall hereafter be erected, reconstructed or structurally altered nor shall any work be started upon same until a construction permit for same has been issued by the Administrative Officer, which permit shall state that the proposed building complies with all provisions of this Code. This permit is valid for one year following issuance for one- and two-family dwellings and 18 months for multi-family, commercial and industrial structures.

2. Fees. The Administrative Officer is directed to issue permits, under the Zoning Ordinance, for the construction, reconstruction or alteration of residential, commercial or industrial buildings, and to charge fees therefor in such amounts as may be established from time to time by resolution of the Council. Such fees as are required shall be credited to the General Fund of the City. Building permits shall be issued without charge, however, to:

- A. The United States Government or any political subdivision thereof.
- B. The State of Iowa or any political subdivision thereof.
- C. To any religious group for the construction of a church or parochial school.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 165.15 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NUMBER	DATE ADOPTED
1995-4	October 2, 1995
1997-1	August 4, 1997
1997-2	May 5, 1997
1997-4	June 2, 1997
1998-1	March 2, 1998
2000-1	March 15, 2000
2002-3	November 4, 2002
2006-14	June 5, 2006
2006-16	August 21, 2006
2006-18	January 3, 2007
2007-3	October 1, 2007
2009-12	January 4, 2010
2022-1	September 7, 2022

[The next page is 751]

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Purpose	170.09 Specifications for Final Plat
170.02 Jurisdiction	170.10 Design Standards
170.03 Definitions	170.11 Improvements Required
170.04 Preliminary Platting Procedure	170.12 Fees
170.05 Final Platting Procedure	170.13 Variances
170.06 Plats Outside Corporate Limits	170.14 Amendments
170.07 Professional Assistance	170.15 Enforcement
170.08 Contents of Preliminary Plat	

170.01 PURPOSE. The purpose of this chapter is to provide for the harmonious development of the City and adjacent territory by establishing appropriate standards for streets, blocks, lots, utilities, and other improvements, by promoting coordination with existing development and by establishing procedures and conditions for the approval of subdivisions of land, all in the interest of the health, safety and general welfare of the community.

170.02 JURISDICTION. All plats, replats or subdivisions of land into three or more parts for the purpose of laying out a portion of the City, additions thereto, or suburban lots within two miles of the corporate limits of the City, for other than agricultural purposes, shall be submitted to the Council and Planning and Zoning Commission of the City, in accordance with the provisions of this chapter, and shall be subject to the requirements established herein.

(Code of Iowa, Sec. 354.8 and 354.9)

170.03 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined. The word “building” includes the word “structure.”

1. “Alley” means a permanent service way providing a secondary means of access to abutting lands.
2. “Arterial street” means a thoroughfare or collector street.
3. “Building line” means a line established on a plat as a restrictive covenant, beyond which no building may be placed. The building lines need not correspond to the front, side, or rear yard requirements established in the Zoning Regulations, and where they do not, the most restrictive requirement will control.
4. “Collector street” means a street intended to carry vehicular traffic from residential streets to arterial streets.
5. “Commission” means the Planning and Zoning Commission of the City.
6. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
7. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said person’s property.
8. “Final plat” means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the County Recorder.

9. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and Commission for consideration.
10. "Residential street" means a street used primarily for access to abutting property.
11. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of the ordinance codified in this chapter.
12. "Street" means a right-of-way dedicated to and accepted for public use, which affords the principal means of access to abutting property.
13. "Street pavement" means the wearing or exposed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.
14. "Street right-of-way" means the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.
15. "Subdivider" means any person who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for said person or others.
16. "Subdivision" means the division of a separate tract of land into three or more lots or parcels for the purpose of transfer of ownership or building development, or if a new road is involved, any division of a parcel of land.
17. "Thoroughfare street" means a street intended for cross-town or through traffic.

170.04 PRELIMINARY PLATTING PROCEDURE.

1. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared of the subdivision containing the information specified herein, and shall file 12 copies and a reproducible sepia or tracing of the plat with the Clerk.
2. The Clerk shall immediately transmit seven copies of the preliminary plat to the Commission for study and recommendation.
3. The Commission shall examine the plat as to its compliance with this chapter and the comprehensive plan of the City and shall have 30 days within which to submit a recommendation to the Council, provided that the owner or developer may agree to an extension of time not to exceed 60 days.
4. The Council, upon receipt of the Commission's recommendation, or after 30 days or any extension thereof shall have passed, shall by resolution grant approval of or reject the preliminary plat. Approval of the preliminary plat by the Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

170.05 FINAL PLATTING PROCEDURE.

1. A final plat shall be submitted within 12 months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.

2. Procedures for final plats shall be the same as set out for preliminary plats above except that approval of the final plat by the following shall be affixed to the plat, the sepia and all copies thereof:

- A. All utility companies providing service for the subdivision.
- B. The Commission.
- C. The Building Official.
- D. The City Engineer.

3. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the Clerk, County Auditor, and County Recorder along with such other certifications and instruments as may be required by law.

170.06 PLATS OUTSIDE CORPORATE LIMITS. Procedure for approval of preliminary and final plats of land outside the corporate limits shall be the same as set out in Sections 170.04 and 170.05 above, except that five copies of the plat shall be filed with the City Clerk. The Planning and Zoning Commission shall review and make recommendations to the Council. The Council shall pass a resolution with their recommendation, and submit it to the County Planning and Zoning Commission. The County Commission shall not take action on the plat prior to receiving the recommendations of the County.

170.07 PROFESSIONAL ASSISTANCE. The Council and Commission may request such professional assistance as they deem necessary to properly evaluate the plats as submitted.

170.08 CONTENTS OF PRELIMINARY PLAT. The preliminary plat shall contain the following information:

- 1. A location map showing:
 - A. The subdivision name.
 - B. An outline of the area to be subdivided.
 - C. The existing streets and City utilities on adjoining property.
 - D. North point and scale.
- 2. A preliminary plat of the subdivision drawn to the scale of 100 feet to one inch, such preliminary plat to show:
 - A. Legal description, acreage and name of proposed subdivision.
 - B. Name and address of owner.
 - C. Name of person who prepared the plat, and the date thereof.
 - D. North point and graphic scale.
 - E. Contours at five-foot intervals, or less.
 - F. Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision.
 - G. Layout of proposed blocks (if used) and lots, including the dimensions of each and the lot and block number in numerical order.

- H. Location and widths, other dimensions and names of the proposed streets, alleys, roads, utility and other easements, parks and other open spaces or reserved areas.
 - I. Names of adjacent property owners.
 - J. Grades of proposed streets and alleys.
 - K. A cross section of the proposed streets showing the roadway location, the type of curb and gutter, the paving and sidewalks to be installed.
 - L. The location of proposed water mains, fire hydrants and sanitary sewer.
 - M. The proposed drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures.
 - N. Proposed building lines, if different than the yard requirements established in the Zoning Regulations.
 - O. Copy of restrictive covenants proposed by the subdivider.
3. A statement of comments and recommendations concerning preliminary plat from the City Engineer.

170.09 SPECIFICATIONS FOR FINAL PLAT. The final plat shall meet the following specifications:

- 1. It may include all or only part of the preliminary plat.
- 2. The plat shall be drawn to the scale of 100 feet to one inch.
- 3. The final plat shall contain the following:
 - A. Accurate boundary lines with dimensions and angles which provide a survey of the tract closing with an error of not more than one foot in 3,000 feet.
 - B. Accurate references to known or permanent monuments giving the bearing and distance from some corner of the congressional division of which the City or addition thereto is a part.
 - C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.
 - D. Accurate legal description of the boundary.
 - E. Street names.
 - F. Complete curve notes for all curves included in the plat.
 - G. Street and alley lines with accurate dimensions in feet and hundredths of feet with angles of street, alley and lot lines.
 - H. Lot numbers and dimensions.
 - I. Block numbers, if used.
 - J. Building lines, if different than yard requirements of the Zoning Ordinance.
 - K. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
 - L. Location, type, material and size of all markers.

- M. Name of the subdivision.
 - N. Name and address of owner and subdivider.
 - O. North point, scale and date.
 - P. Certification by a land surveyor of the State of Iowa.
 - Q. Certification of dedication of streets and alleys and other public property.
 - R. Resolution and certificate for approval by the Council and signatures of the Mayor and Clerk.
 - S. Location and dimensions of utility easements and certificate of utility easement dedication.
4. The final plat shall be accompanied by the following instruments:
- A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
(Code of Iowa, Sec. 354.11[1a])
 - B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
(Code of Iowa, Sec. 354.11[1b])
 - C. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
(Code of Iowa, Sec. 354.11[1c])
 - D. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.
(Code of Iowa, Sec. 354.11[1f])
 - E. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
 - F. A statement by the Auditor approving the name or title on the subdivision plat.
(Code of Iowa, Sec. 354.11[1e])

G. One of the following:

(1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications, provided, however, that no improvements shall be installed unless formal action has been taken by the Commission and Council approving the plans and specifications of such improvements and the installation of the same; or

(2) In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond satisfactory to the City guaranteeing that improvements not completed will be completed within a period of two years from the date of approval of the final plat. However, the Council may, by written agreement with the subdivider, agree to a longer period for completion of the improvements. The City may, at its sole discretion, accept alternative sureties to performance bonds to insure the installation of the improvements necessary for completion of the subdivision. Approval of the plat does not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after completion and testing.

(3) A petition by the subdivider to the Council to provide the necessary improvements and installations and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations. If option (1) or option (2) above is selected and approved by the Council, the final plat shall state that the developer, its grantees, assignees and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.

H. Copy of all restrictive covenants to be attached to the lots of the subdivision.

5. A statement of compliance with all requests and standards of the City Engineer.

170.10 DESIGN STANDARDS. The City Council hereby adopts the City of Lone Tree, Iowa, Design Standards, Edition 2002, a copy of which is on file at the office of the City Clerk of the City of Lone Tree, Iowa.

170.11 IMPROVEMENTS REQUIRED.

1. Sanitary Sewers. The subdivider shall provide the subdivision with a complete sanitary sewage system which shall connect with a sanitary sewer outlet approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property.

2. Storm Drains. The developer shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes and manholes to provide for the collection and removal of all surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties. The developer shall install drain tile within the easement going to the storm sewers. This drain tile shall be used by the homeowners to discharge water pumped out by their sump pumps.
3. Water. The subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall extend into and through the subdivision to the boundary lines, and which shall provide for a water connection to each lot, and shall be connected to the City water system. All water main supply shall be of not less than six-inch diameter. All extensions of the water system will be continuous and connected by a loop. All existing drainage tile shall be reconnected so as to prevent any impairment of drainage.
4. Sidewalks. A four-foot wide concrete sidewalk shall be provided adjacent to each lot frontage. Any subdivider or owner of any lot within the City must install all sidewalks as required by ordinance or must obtain a waiver of the requirement from the City. Said sidewalk installation must be inspected and approved by the City Building Inspector. Said approval must be issued, in writing, prior to any occupancy of a dwelling on the property.
5. Markers. An iron rod not less than one-half inch in diameter and 24 inches in length shall be placed as follows:
 - A. Set in concrete three feet deep at the intersection of all lines forming angles in the boundary of the subdivision, and at all street intersections.
 - B. At lot corners and changes in direction of block and lot boundaries.
6. Grading. All streets and alleys within the platted area which are being dedicated for public use shall be brought to the grade approved by the Council.
7. Curb and Gutter. Curb and gutter shall be installed on all streets in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with designs and specifications approved by the Council and at grades established by the Council.
8. Street Lighting. Subdivider shall install lighting and poles of such illumination and type as are consistent with the overall City development and approved by the Council.
9. Surfacing. All streets being dedicated for public use shall be surfaced from curb to curb. Surfacing shall be asphaltic concrete or Portland cement concrete as determined by the Council and shall be constructed in accordance with the designs and specifications approved by the Council, at grades established by the Council.
10. Specifications. The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.
11. Inspection. The Council shall cause the installation of all improvements to be inspected to insure a compliance with the requirements of this chapter. The cost of said

inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the City.

12. **As-Built Construction Plans.** Upon completion of City-approved construction in the subdivision, and after final inspection by the City, the subdivider shall provide the City with as-built construction plans in a format and quantity to be established by the City Engineer. No building or occupancy permits shall be granted to the subdivider until the final inspection has been completed and approved and the as-built plans received by the City.

170.12 FEES. Each preliminary plat submitted for approval shall be accompanied by a fee as set by resolution of the Council, which shall be credited to the General Fund of the City.

170.13 VARIANCES. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

170.14 AMENDMENTS. This chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within 30 days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

170.15 ENFORCEMENT. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. No plat or subdivision in the City or within two miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.
2. No more than two building permits shall be issued for each separate tract existing at the effective date of the ordinance codified herein unless the tract shall have been platted in accordance with the provisions of this chapter.
3. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements or other services in any area that has been subdivided after the date of adoption of the ordinance codified in this chapter unless the subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.
4. Any person who shall hereafter dispose of or offer for sale or lease any lots in the City or addition thereto unless the plat thereof has been approved in accordance with this chapter and recorded, shall forfeit and pay \$50.00 for each lot or part of lot sold or disposed of, leased or offered for sale.

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	70.05
<i>See also</i> State Code Traffic Regulations	62.01
ABANDONMENT OF CATS AND DOGS	55.04
ABATEMENT OF NUISANCES	50
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(6)
Social Host Liability	45.04
ALL-TERRAIN VEHICLES	77
AMUSEMENT DEVICES	120.06
ANGLE PARKING	69.04 and 69.05
ANIMAL PROTECTION AND CONTROL	
Abandonment of Cats and Dogs	55.04
Animal Neglect	55.02
Annoyance or Disturbance	55.08
At Large Prohibited; Leashing	55.06
Confinement of Animals Suspected of Having Rabies	55.11
Damage or Interference by Animals	55.07
Dangerous and Vicious Animals.....	57
Duty to Report Attacks.....	55.10
Impounding	55.12 - 55.14
Livestock	55.03 and 55.05
Pet Awards Prohibited.....	55.15
Rabies Vaccination.....	55.09
ANTENNA AND RADIO WIRES	41.09
APPOINTMENTS	
By Council	17.05
By Mayor	15.03

	CHAPTER OR SECTION NUMBER
ASSAULT	40.01
ATTORNEY FOR CITY	20
AUTOMOBILE REPAIR ON PUBLIC PROPERTY	69.06(2)
AWNINGS	136.13
BARBED WIRE AND ELECTRIC FENCES	41.10
BEER, LIQUOR, AND WINE CONTROL <i>See</i> ALCOHOL	
BILLBOARDS	50.02(6) and 62.06
BONDS	
City Officials	5.02
House Movers.....	123.04
Public Bonds, Records of	18.08(3)
Streets	135.09(4)
Transient Merchants	122.05
BUDGET	
Amendments.....	7.06
Preparation	7.05
BUILDING CODES	155
BUILDING MOVERS	123
BUILDING NUMBERING	150
BUILDING SEWERS AND CONNECTIONS	96
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	136.16
Open Burning Prohibited.....	105.05
Yard Waste	105.06
BUSINESS DISTRICT	60.02(1)
<i>See also:</i>	
Sidewalks	136.08(5)(B)
CAR WASHING ON STREETS	135.07
CEMETERY PROVISIONS	115
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits)	63.03
CHARTER	2

	CHAPTER OR SECTION NUMBER
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 ENGINEER	23
CITY OFFICERS AND EMPLOYEES	
Appointments by Council	17.05
Appointments by Mayor	15.03
Bonds	5.02
City Attorney.....	20
City Clerk.....	18
City Council	17
City Engineer	23
City Treasurer.....	19
Conflict of Interest	5.07
Discretionary Powers	1.13
Extension of Authority.....	1.07
Gifts to.....	5.11
Harassment of.....	41.05
Indemnity of.....	1.04
Mayor	15
Oath of Office	5.01
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

	CHAPTER OR SECTION NUMBER
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
COMMUNICATIONS TOWERS AND ANTENNAS	157
COMPENSATION	
Changes in	17.02(7)
City Attorney	20.01
City Clerk	18.01
Council Members	17.06
Mayor	15.04
Mayor Pro Tem	16.04
Set by Council	17.02(7)
Treasurer.....	19.02
CONFLICT OF INTEREST	5.07
CONSTRUCTION CODES.....	155
CONTRACT LAW ENFORCEMENT	30
CONTRIBUTING TO DELINQUENCY.....	46.03
COUNCIL	17
COUNCIL MEETINGS.....	17.04
CRIMINAL MISCHIEF	42.02
CROSSWALKS	
Designation and Maintenance	61.03
Parking Prohibited in	69.07(1)
Pedestrians in Crosswalks	65.05
CURFEW	46.01
DANGEROUS BUILDINGS	145
DANGEROUS SUBSTANCES, DISTRIBUTING OF	41.01
DANGEROUS TOYS (THROWING AND SHOOTING)	41.12
DEFACING PROCLAMATIONS AND NOTICES	42.03
DEPOSIT FOR UTILITIES.....	92.09

	CHAPTER OR SECTION NUMBER
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
<i>See also</i> ANIMALS	
DRIVEWAY CULVERTS	135.13
DUTCH ELM DISEASE	50.02(10)
EASEMENTS, USE OF	95.08
ELECTIONS	
Duties of Clerk	18.12
Procedures	6
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	165.25
FIGHTING	40.03(1)
FINANCE OFFICER	7.02
FINANCES	7
FINANCIAL REPORTS	7.08
FIRE PROTECTION	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)

	CHAPTER OR SECTION NUMBER
FIRE SPRINKLER SYSTEMS CONNECTIONS	91.03
FIRES	
In Parks.....	47.03
On Sidewalks.....	136.16
Open Burning Prohibited.....	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
GANG ACTIVITY	50.02(12)
GARBAGE COLLECTION AND DISPOSAL	105 and 106
GAS FRANCHISE	110
GIFTS TO CITY OFFICIALS	5.11
GOLF CARTS	76
GOLF IN PARKS	47.06
GRADES OF STREETS, ALLEYS AND SIDEWALKS	138
HANDICAPPED PARKING	
<i>See</i> Persons with Disabilities Parking	69.08
HARASSMENT	
Of Other Persons	40.02
Of Public Officers and Employees	41.05
HAZARDOUS SUBSTANCE SPILLS	36
HAZARDOUS WASTE	105.08
<i>See also</i> Prohibited and Restricted Discharges to Sewer System.....	97.03 and 97.04
HITCHHIKING	67.02
HOUSE MOVERS	123
HOUSE NUMBERS	150
HOUSES OF ILL FAME	50.02(12)
IMPOUNDING	
Animals	55.12
Vehicles.....	70.05 and 80.02

	CHAPTER OR SECTION NUMBER
INDEMNITY AGREEMENT, PERMITS AND LICENSES	1.04
INSURANCE REQUIREMENTS	
Fireworks	41.14
House Movers	123.05
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)
KEY BOXES.....	152
LEGAL OPINIONS	20.06
LICENSES	
Dogs	56
Drivers.....	62.01
Junk Dealers and Pawnbrokers	124
Liquor.....	120
Peddlers, Solicitors and Transient Merchants	122
<i>See also</i> Issuance of Licenses and Permits.....	18.10
<i>See also</i> PERMITS	
LIQUOR LICENSES AND WINE AND BEER PERMITS	120
LITTERING	
Debris on Sidewalks.....	136.18
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
MANUFACTURED AND MOBILE HOMES	165.19
MAYOR	
Appointments	15.03
Compensation.....	15.04
Powers and Duties.....	15.02
Term of Office.....	15.01
Voting.....	15.05
<i>See also</i> CITY OFFICERS AND EMPLOYEES	
MAYOR PRO TEM.....	16

	CHAPTER OR SECTION NUMBER
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
<i>See also:</i>	
Amusement Devices	120.06
Employment for Serving of Alcohol	120.05(4)
Persons Under Legal Age	45.01
Persons Under Legal Age	121.07
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(3)
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
ONE-WAY TRAFFIC	68
ON-SITE WASTEWATER SYSTEMS	98
OPEN BURNING	105.05
OPEN CONTAINERS IN MOTOR VEHICLES	62.01(6)
OPEN MEETINGS	5.06
OPERATING PROCEDURES	5
PARADES REGULATED	60.08
PARK COMMISSION	22
PARK REGULATIONS	47
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits)	63.03

 CHAPTER OR SECTION
NUMBER

PARKING REGULATIONS (Continued)

Angle Parking.....	69.04 and 69.05
Illegal Purposes	69.06
Park Adjacent to Curb	69.02 and 69.03
Parking Prohibited.....	69.07
Parking Violations.....	70.02 and 70.03
Persons With Disabilities Parking.....	69.08
Snow Removal	69.11
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
Removal of an Officer's Communication or Control Device	41.07

See also **CONTRACT LAW ENFORCEMENT**..... 30

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS..... 122**PEDESTRIANS**..... 67

See also:

Crosswalks	61.03
State Code Traffic Regulations	62.01
Yield to Pedestrians in Crosswalks	65.05

PENALTIES

Abatement of Violation of Sewer Connection Requirements	96.10
Additional Penalties – Cigarette and Tobacco Permits	121.07
Curfew Violations	46.01(5)
Municipal Infractions	3
Special Penalties (Sanitary Sewer Regulations).....	95.09
Standard Penalty for Violation of Code of Ordinances.....	1.14
Traffic Code Violations.....	70

PERMITS

Beer and Wine.....	120
Building.....	155
Cigarette and Tobacco.....	121.02
Fireworks	41.14
House Mover.....	123.02
On-Site Wastewater System.....	98.04
Persons with Disabilities Parking.....	69.08
Sewer Connection	96.01
Sexually Oriented Businesses	126
Sidewalks	136.07

	CHAPTER OR SECTION NUMBER
PERMITS (Continued)	
Street Excavation.....	135.09(1)
Vehicles, Excess Size and Weight.....	66.02
Vending Machines and Sales Stands on Sidewalks.....	136.20
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	55.15
PETTY CASH FUND	7.03(3)
PLANNING AND ZONING COMMISSION	21
PLAY STREETS	62.02
<i>See also</i> Playing in Streets.....	135.04
POLICE DEPARTMENT	
<i>See</i> CONTRACT LAW ENFORCEMENT	30
POLLUTION	
Air Pollution.....	50.02(8)
Environmental Violations.....	3.02
Hazardous Substance Spills.....	36
Incinerators Required	105.10
Open Burning Prohibited.....	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	
City Clerk	18.02
City Council	17.02 and 17.03
City Officers Generally	2.03
Mayor	15.02
Mayor Pro Tem	16.02
Municipal Officers	5.03
PRIVATE PROPERTY	42
PRIVATE WATER SYSTEMS (SEWER CHARGES)	99.06
PUBLIC AND PRIVATE PROPERTY	
Criminal Mischief.....	42.02
Damage to Sewer System.....	95.04(1)
Defacing Proclamations or Notices	42.03
Fraud.....	42.05
Littering Prohibited	105.07
Park Regulations.....	47
Public and Private Property	42
Sidewalk Regulations	136

	CHAPTER OR SECTION NUMBER
PUBLIC AND PRIVATE PROPERTY (Continued)	
Street Excavations	135
Theft	42.06
Trees and Shrubs on Public Property	151
Trespassing	42.01
Unauthorized Entry	42.04
PUBLIC ENTERTAINMENT IN PARKS	47.07
PUBLIC HEALTH AND SAFETY	41
PUBLIC NOTICES	18.05(1)
PUBLIC OFFENSES	
Littering Prohibited	105.07
Public and Private Property	42
Public Health and Safety	41
Public Peace	40
<i>See also</i> SIDEWALK REGULATIONS	136
<i>See also</i> STREET EXCAVATIONS	135
PUBLICATION REQUIREMENTS	18.05
RABIES VACCINATION	55.09
RECORDS	
Accounting	7.07
Maintenance by Clerk	18.08
Minutes of Council Meetings	5.06(3)
Public Records, Access to	5.04
Transfer to Successors	5.05
REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES	5.09
RESIGNATION OF ELECTED OFFICERS	5.08
RIGHT TO ENTER	
Sewer Service Inspection and Sampling	95.07
Solid Waste Collection	106.06
Use of Easements	95.08
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
SEWER RATES	99

	CHAPTER OR SECTION NUMBER
SIDEWALKS	
Barricades and Warning Lights	136.10
Construction Standards.....	136.08
Debris on	136.18
Defacing	136.17
Encroaching Steps	136.14
Fires and Fuel on	136.16
Interference with Improvements.....	136.12
Maintenance	136
Openings and Enclosures	136.15
Parking Prohibited on Sidewalks	69.07(4)
Sales Stands and Merchandise Displays.....	136.19 and 136.20
Snow Removal	136.03
Use by Pedestrians.....	67.03
Vehicles Crossing Sidewalks	65.03
Vehicles on Sidewalks.....	62.03
SIGNS	165.24
SKATES, COASTERS AND TOY VEHICLES	
Clinging to Vehicle	62.04
SNOW REMOVAL	
From Sidewalks	136.03
From Streets	135.12
Parking	69.11
SNOWMOBILES	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
STATE CODE TRAFFIC REGULATIONS	62.01
STOP OR YIELD REQUIRED	65
STORM WATER	
Discharge to Sanitary Sewer Prohibited.....	95.04(2) and 97.01
Surface Water Exception.....	97.02
STREET NAME MAP	139.04 and 139.05

 CHAPTER OR SECTION
NUMBER

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

See also **TRAFFIC CODE**

SUBDIVISION REGULATIONS	170
--------------------------------------	-----

TERMS OF OFFICE

Clerk	18.01
Council	2.04 and 17.01
Mayor	2.05 and 15.01
Treasurer	19.01

THEFT

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

TRAFFIC REGULATIONS	62.01
----------------------------------	-------

TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS	122
--	-----

TREASURER	19
------------------------	----

	CHAPTER OR SECTION NUMBER
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 Prohibited.....	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
TURNING REGULATIONS	64
UNAUTHORIZED ENTRY	42.04
UNLAWFUL ASSEMBLY	40.04
URBAN RENEWAL	8
URBAN REVITALIZATION AREA	9
URINATING AND DEFECATING IN PUBLIC	41.13
UTILITIES	
Natural Gas	110
Sewer Service System	95 - 99
Water Service System	90 - 93
U-TURNS	64.02
UTV REGULATIONS	76
VACANCIES IN OFFICE	5.10
VACATING STREETS OR ALLEYS	137
VETO	
Council May Override.....	17.03
Mayor's Authority	15.02(4)
VICIOUS ANIMALS	57
VIOLATIONS	
Cigarette and Tobacco Violations (Sale to Minors)	121.07
Environmental	3.02
Municipal Infractions	3
Parking	70
Special Penalties for Violation of Sanitary Sewer Regulations	95.09
Standard Penalty for Violation of Code of Ordinances.....	1.14
Traffic	62.01
WARRANTS	1.12

	CHAPTER OR SECTION NUMBER
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
Water Wells.....	93
WATER WELL PROTECTION	146
WEAPONS	
Discharging Weapons in City Limits	41.11
Throwing and Shooting	41.12
WEEDS AND BRUSH	50.02(9)
WINE	
<i>See ALCOHOL</i>	
YARD REQUIREMENTS	
<i>See ZONING</i>	165
YARD WASTE	105.06
YIELD REQUIRED	65
ZONING REGULATIONS	165

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 LONE TREE, 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 Lone Tree, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Lone Tree, 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 LONE TREE, 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 Lone Tree, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Lone Tree, 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 LONE TREE, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

BE IT ENACTED by the City Council of the City of Lone Tree, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Lone Tree, 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 LONE
TREE, IOWA**

Be It Enacted by the City Council of the City of Lone Tree, Iowa:

SECTION 1. The (location or legal description of street or alley) to Lone Tree, 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 Lone Tree, 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 Lone Tree, 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 Lone Tree, 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 Lone Tree, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Lone Tree, 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 Lone Tree, 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 Lone Tree, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING**REQUIRED SEWER CONNECTION**

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Lone Tree, 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 Lone Tree, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER
REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Lone Tree, 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

CITY OF LONE TREE, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: _____ APPLICATION NO.: _____ FEE: _____

Applicant _____
Address _____

Tel. No. (Bus.) _____ (Res.) _____

FOR OFFICE USE ONLY

____ FEE PAID
____ PLOT DIAGRAM SUBMITTED
____ PLAN SUBMITTED
____ APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS _____

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: _____

PRESENT USE: _____

PROPOSED USE: _____

A *PLOT DIAGRAM*, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, AND A *PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION*.

I have read Chapter _____ of the Code of Ordinances of Lone Tree, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

(Applicant's Signature)

CITY OF LONE TREE, IOWA

BUILDING/LAND USE PERMIT

PERMIT NO. _____ (Date)

APPLICATION NO. _____
(Date of Application)

LOCATION _____

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER ____,
“BUILDING AND LAND USE REGULATIONS” OF THE CODE OF ORDINANCES OF
LONE TREE, IOWA.

APPROVED BY COUNCIL _____ (Date)

THIS PERMIT ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

CITY OF LONE TREE, IOWA

APPLICATION FOR A CERTIFICATE OF OCCUPANCY

DATE _____ APPLICATION NO. _____

APPLICATION NO. OF BUILDING/LAND USE PERMIT _____

APPLICANT: _____

ADDRESS: _____

TELEPHONE NO. (Business) _____

(Home) _____

Signature of Applicant

Signature of Building Official

CITY OF LONE TREE, IOWA

CERTIFICATE OF OCCUPANCY

NO. _____

☐ PERMANENT

☐ TEMPORARY

DATE: _____

C.O. APPLICATION NO. _____

BUILDING/LAND USE PERMIT NO. _____

DATE ISSUED: _____

LOCATION _____

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER
_____ OF THE CODE OF ORDINANCES OF _____, IOWA,
AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

THIS CERTIFICATE ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

