

# CHAPTER 1

## CODE OF ORDINANCES

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**1.01 TITLE.** This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Lake View, Iowa, 2011.

**1.02 DEFINITIONS.** Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances:

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Lake View, Iowa.
3. “Clerk” means the city clerk of Lake View, 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 Lake View, Iowa, 2011.
6. “Council” means the city council of Lake View, Iowa.
7. “County” means Sac County, Iowa.
8. “Measure” means an ordinance, amendment, resolution or motion.
9. “Month” means a calendar month.
10. “Oath” means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” are equivalent to the words “swear” and “sworn”.

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"Ordinances" means the ordinances of the City of Lake View, Iowa, as embodied in the Code of Ordinances, ordinances not repealed by the ordinance adopting the Code of Ordinances, and those enacted hereafter.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. "Preceding" and "following" mean next before and next after, respectively.
15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. "Public property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
20. "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.
21. "State" means the State of Iowa.
22. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
23. "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.
24. "Writing" and "written" include printing, typing, lithographing, or other mode of representing words and letters.
25. "Year" means a calendar year.

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

*(Code of Iowa, Sec. 364.1)*

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

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

*(Code of Iowa, Sec. 364.14)*

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

1. Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular.
2. May. The word “may” confers a power.
3. Must. The word “must” states a requirement.
4. Shall. The word “shall” imposes a duty.
5. Gender. The masculine gender shall include the feminine and neuter genders.
6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.
7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

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

*(Code of Iowa, Sec. 380.2)*

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

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

*(Code of Iowa, Sec. 718.5)*

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

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## CHAPTER 2

### CHARTER

2.01 Title  
2.02 Form of Government  
2.03 Powers and Duties

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

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

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

*(Code of Iowa, Sec. 372.4)*

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

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 376.2)*

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

*(Code of Iowa, Sec. 372.1)*

#### EDITOR'S NOTE

Ordinance No. 173 adopting a charter for the City was passed and approved by the Council on March 5, 1973, and published on March 14, 1973. Terms of office of the Mayor and Council were extended to four years pursuant to an election held November 8, 1983.

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## CHAPTER 3

### BOUNDARIES

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

Beginning at the northeast corner of Section 33, T-87-N, R-36-W of the 5th P.M., Sac County, Iowa; thence south, along the east line of said Section 33, to the southeast corner of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Section 33; thence east along the north line of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 34 to the northeast corner of said Southwest Quarter (SW $\frac{1}{4}$ ); thence south 89°49' east, 516.00 feet; thence north 44°31' east, 663.40 feet; thence north 76°55' east, 510.00 feet; thence north 00°26' east, 838.30 feet; thence south 89°14' east, 999.15 feet to a point on the east line of said Section 34; thence south 00°52' east, along the east line of said Section 34, 171.60 feet to a point on the Iowa State Conservation Commission property line; thence south 24°04' west, 883.85 feet; thence south 50°21' west, 99.85 feet to the northeast corner of Karstens First Addition, thence along the southeasterly line of the following additions: Karstens First Addition, Drillings North Shore Third Addition, Drillings North Shore Second Addition and Drillings North Shore First Addition, excepting Lots 16 and 17 to the east line of the Southwest Quarter (SW $\frac{1}{4}$ ) of said Section 34; thence continuing southwesterly along the north right-of-way line of the Iowa State Conservation Commission road to a point due north of the northeasterly corner of Lot One (1), Friedrichsen's First Addition; thence south to the northeast corner of said Lot One (1); thence along the ordinary high-water line of Black Hawk Lake to an intersection with the east line of Section 33 to the southeast corner thereof; thence west, along the south line of said Section 33; thence continuing west, along the south line of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 32 to the southwest corner of said Southeast Quarter (SE $\frac{1}{4}$ ); thence north along the west line of the Southeast Quarter (SE $\frac{1}{4}$ ) and the west line of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Section 32; thence continuing north, along the west line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 29; thence east, along the north line of the South Half (S $\frac{1}{2}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of said Section 29; thence continuing east, along the north line of the South Half (S $\frac{1}{2}$ ) of the South Half (S $\frac{1}{2}$ ) of Section 28; thence south, along the east line of the Southeast Quarter (SE $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 38 to the point of beginning.

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## CHAPTER 4

### STANDARD PENALTY - MUNICIPAL INFRACTIONS

4.01 Standard Penalty  
4.02 Municipal Infraction

4.03 Alternative Relief  
4.04 Criminal Penalties

**4.01 STANDARD PENALTY.** Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person violating any of the provisions or failing to comply with any of the mandatory requirements of the Code of Ordinances of Lake View, Iowa, is guilty of a simple misdemeanor. Any person convicted of a simple misdemeanor under the Code of Ordinances of Lake View, Iowa, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed thirty (30) days. *(Ord. 342 – Dec. 00 Supp.)*  
*(Code of Iowa, Sec. 364.3[2])*

#### **4.02 MUNICIPAL INFRACTION.**

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

A. "Municipal Infraction." Except for 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, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances of the City of Lake View, Iowa, or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the Code of Ordinances of the City of Lake View, Iowa, or any ordinance or code herein adopted by reference is a municipal infraction and is punishable by civil penalty as provided herein.

B. "Officer" means any employee or official authorized to enforce the Code of Ordinances of the City of Lake View, Iowa.

C. "Repeat Offense" means a recurring violation of the same section of the Code of Ordinances of the City of Lake View, Iowa.

*(Code of Iowa, Sec. 364.22)*

## 2. Penalties and Alternative Relief.

A. Penalties. A municipal infraction is punishable by the following civil penalties unless a specific civil penalty is provided for specific offenses elsewhere in this Code:

SCHEDULE OF CIVIL PENALTIES
First Offense - Not to exceed \$750.00
Each Repeat Offense - Not to exceed \$1,000.00

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

*(Ord. 434 – Nov. 11 Supp.)*

B. 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.

3. Civil Citations. Any officer may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service or by certified mail, return receipt requested. A copy of the 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])*

- A. The name and address of the defendant.
- B. The name or description of the infraction attested to by the officer issuing the citation.
- C. The location and time of the infraction.
- D. The amount of civil penalty to be assessed or the alternative relief sought, or both.
- E. The manner, location, and time in which the penalty may be paid.
- F. The time and place of court appearance.
- G. The penalty for failure to appear in court.

**4.03 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. *(Ord. 434 – Nov. 11 Supp.)*

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

**4.04 CRIMINAL PENALTIES.** This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means. *(Ord. 434 – Nov. 11 Supp.)*

*(Code of Iowa, Sec. 364.22[11])*

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## CHAPTER 5

### OPERATING PROCEDURES

5.01 Oaths	5.07 Conflict of Interest
5.02 Bonds	5.08 Resignations
5.03 Duties: General	5.09 Removal of Appointed Officers and Employees
5.04 Books and Records	5.10 Vacancies
5.05 Transfer to Successor	5.11 Gifts
5.06 Meetings	5.12 Mileage and Expenses

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

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

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

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

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

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

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

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

**5.04 BOOKS AND RECORDS.** All books and records required to be kept by law or ordinance shall be open to inspection by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential.

*(Code of Iowa, Sec. 22.1 & 22.2)*

**5.05 TRANSFER TO SUCCESSOR.** Each officer shall transfer to the officer's 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 multimembered 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 Iowa Code.

*(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 Iowa Code.

*(Code of Iowa, Sec. 21.8)*

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

*(Ord. 374 – Sep. 03 Supp.)*

*(Code of Iowa, Sec. 362.5[5])*

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 362.5[10])*

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

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

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

*(Ord. 374 – Sep. 03 Supp.)*

*(Code of Iowa, Sec. 362.5[13])*

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

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

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

*(Code of Iowa, Sec. 372.15)*

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

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

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

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

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

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

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

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

**5.12 MILEAGE AND EXPENSES.** A public official or employee is entitled to be paid for expenses incurred in performing a public duty and for the use of an automobile in the amount of two cents (2¢) less than the IRS allows per mile.

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## CHAPTER 6

### CITY ELECTIONS

6.01 Nominating Method to be Used  
6.02 Nominations by Petition  
6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit  
6.05 Filing, Presumption, Withdrawals, Objections  
6.06 Persons Elected

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

*(Code of Iowa, Sec. 376.3)*

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

*(Code of Iowa, Sec. 45.1)*

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

*(Code of Iowa, Sec. 45.2)*

**6.04 PREPARATION OF PETITION AND AFFIDAVIT.** Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be 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. *(Ord. 360 – Oct. 02 Supp.)*

*(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])*

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## CHAPTER 7

### FISCAL MANAGEMENT

7.01 Purpose	7.06 Budget Amendments
7.02 Finance Officer	7.07 Accounting
7.03 Cash Control	7.08 Financial Reports
7.04 Fund Control	7.09 Unauthorized Expenditure
7.05 Operating Budget Preparation	

**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 not to exceed two hundred dollars (\$200.00) for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to

the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. Emergency Fund. No transfer may be made from any fund to the emergency fund.

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

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

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

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

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

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

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

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

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



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

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

1. Proposal Prepared. The finance officer shall be 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 may be required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 1 of each year.
4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.
5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than four (4) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

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

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

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

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

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program, sub-program and activity as will provide adequate information and control

for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

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

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

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

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

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

*(Code of Iowa, Sec. 384.22)*

**7.09 UNAUTHORIZED EXPENDITURE.** No City official or employee, or any person acting under color of such office or employment, shall knowingly make any contract or authorize any expenditure known by him or her to be in excess of that authorized by law.

*(Code of Iowa, Sec. 721.2[1])*

## CHAPTER 8

### URBAN RENEWAL

#### 8.01 Purpose

#### 8.02 Urban Renewal Area No. 1

#### 8.03 Urban Renewal Area No. 2

#### 8.04 Lake View Urban Renewal Area No. 3

#### 8.05 2009 Addition to the Lake View Urban Renewal No. 3

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

**8.02 URBAN RENEWAL AREA NO. 1.** The provisions of this section apply to the Urban Renewal Area No. 1, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on June 18, 1990:

A part of Sections Twenty-eight (28), Twenty-nine (29), Thirty-two (32) and Thirty-three (33), Township 87 North (T-87-N), Range 36 West (R-36-W) of the 5th P.M., Sac County, Iowa, located within the incorporated limits to the City of Lake View, Iowa, and being more fully described as follows:

Beginning at the northeast corner of the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 33, T-87-N, R-36-W, of the 5th P.M., Sac County Iowa; thence southerly along the east line of the said Northeast Quarter (NE $\frac{1}{4}$ ) to the southeast corner thereof; thence continuing southerly along the east line of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 33 to the northerly line of Crescent Park Drive; thence westerly along the northerly line of Crescent Park Drive to the southwest corner of Lot 150, Crescent Park Addition to the City of Lake View, Iowa; thence northerly and northwesterly along the easterly and northeasterly line of Crescent Park Drive to the most westerly corner of Lot 143, Crescent Park Addition; thence northeasterly and northwesterly along the back side of Lots 88 through 108, to the southwest corner of Lot 141, all in Crescent Park Addition; thence northwesterly along the southwesterly line of said Lot 141, and along an extension northwesterly thereof, to the northwesterly line of City Route Road No. 71; thence southwesterly along the northwesterly line of said Road No. 71, to the southeast corner of Zein's Addition; thence northerly along the easterly line of Zein's Addition, to the northeast corner thereof; thence westerly along the northerly line of Zein's Addition to the westerly line of Outlot Twenty-three (23); thence northerly along the westerly line of Outlot 23 to a point extended easterly from the northerly line of Lot 8, Block 32, Armstrong's Second Addition; thence westerly to and along the northerly line

of Lots 8 and 3, Block 32; Lots 4 and 3, Block 28; Lot 3, Block 23, Armstrong's Second Addition, and along an extension westerly of said last described line, to the easterly line of Hanson Street; thence southerly, along the easterly line of Hanson Street, to the southerly line of Fifth Street; thence westerly along the southerly line of Fifth Street, to the easterly line of Ice Street; thence southerly along the easterly line of Ice Street, to the southerly line of Third Street; thence westerly along the southerly line of Third Street, to the northwest corner of Block 14, Fletcher's First Addition; thence southerly along the westerly line of Block 14, across vacated Second Street, and along the westerly line of Block 13, to the north line of First Street; thence westerly along the northerly line of First Street, to the westerly line of Vine Street; thence northerly along the westerly line of Vine Street, to the southerly line of Second Street; thence westerly along the southerly line of Second Street, to the easterly line of High Street; thence northerly along the easterly line of High Street, to the southerly line of Sixth Street; thence easterly along the southerly line of Sixth Street to the westerly right-of-way line of the original (now abandoned) Chicago and Northwestern Railway; thence northerly along the westerly right-of-way line of said Railway, to the southerly right-of-way line of Iowa Highway No. 175; thence westerly along the southerly right-of-way line of Iowa Highway No. 175, to a point 524.44 feet east of the west line of the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 32; thence southerly 1066.74 feet, parallel with the west line of said Northeast Quarter (NE $\frac{1}{4}$ ); thence easterly 773.89 feet, to the southwest corner of Lot 7 of Wetzstein's Addition; thence southerly across Fifth Street, and along the westerly line of Wetzstein's Second Addition, to the southwest corner thereof; thence easterly along the southerly line of Wetzstein's Second Addition, to the northwest corner of Broughton Boulevard Terrace Addition; thence southerly along the westerly line of Broughton Boulevard Terrace Addition, to the southwest corner thereof; thence easterly along the southerly line of Broughton Boulevard Terrace Addition and along the southerly line of First Street, to the westerly line of High Street; thence southerly along the westerly line of High Street, to the southerly line of the North Half (N $\frac{1}{2}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 32; thence westerly along the southerly line of the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 32, to the southwest corner thereof; thence northerly, along the westerly line of the East Half (E $\frac{1}{2}$ ) of Section 32, to the northwest corner thereof; thence continuing north along the west line of the South Half (S $\frac{1}{2}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 29, to the northwest corner thereof; thence easterly along the northerly line of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 29, to the northeast corner thereof; thence continuing easterly along the northerly line of the S $\frac{1}{2}$  of the S $\frac{1}{4}$  of Section 28, to the northeast corner thereof; thence southerly along the easterly line of the S $\frac{1}{2}$  of the S $\frac{1}{2}$  of Section 28, to the point of beginning.

The area includes the full right-of-way of all streets forming the boundary.

The taxes levied on the taxable property in the Urban Renewal Area No. 1 each year by and for the benefit of the State, the City, the County and any school

district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 271, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area No. 1, as shown on the assessment roll as of January 1, 1989, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area No. 1 on the effective date of Ordinance No. 271, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll as of January 1, 1989, shall be used in determining the assessed valuation of the taxable property in said Urban Renewal Area No. 1 on the effective date.
2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area No. 1, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area No. 1 exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area No. 1 shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area No. 1 shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably

pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area No. 1.

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

**8.03 URBAN RENEWAL AREA NO. 2.** The provisions of this section apply to the Urban Renewal Area No. 2, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on June 18, 1990:

Beginning at the southwest corner of Lake Shore Addition to Lake View, Iowa; thence easterly along the southerly line of Lake Shore Addition, to the southeast corner thereof; thence southeasterly and southerly along the northeasterly and easterly line of Bayview Addition (not dedicated), to the northeast corner of Outlot 14, in the Northeast Quarter (NE $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 33, thence westerly along the northerly line of Outlot 14 to the east line of Lake Street; thence northerly along the easterly line of Lake Street to the point of beginning.

The area includes the full right-of-way of all streets forming the boundary.

The taxes levied on the taxable property in the Urban Renewal Area No. 2 each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 272, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area No. 2, as shown on the assessment roll as of January 1, 1989, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area No. 2 on the effective date of Ordinance No. 272, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll as of January 1, 1989, shall be used in determining the assessed valuation of the taxable property in said Urban Renewal Area No. 2 on the effective date.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area No. 2, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area No. 2 exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area No. 2 shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area No. 2 shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area No. 2.

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

**8.04 LAKE VIEW URBAN RENEWAL AREA NO. 3.** The provisions of this section apply to the Lake View Urban Renewal Area No. 3, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on December 6, 1999:

The Lake View Urban Renewal Area No. 3 includes the two parcels of land as described below:

Part of government Lot Four (4) in the Northeast Quarter (NE ¼) of Section Thirty-four (34), Township 87 North (T-87-N), Range 36 West (R-36-W), of the 5<sup>th</sup> P.M., Sac County, Iowa, and being more fully described as follows:



Commencing at the Northeast (NE) corner of the NE  $\frac{1}{4}$  of Section 34, T-87-N, R-36-W, of the 5<sup>th</sup> P.M., Sac County, Iowa; thence North 90° 00' 00" West, 50.01 feet along the North line of said NE  $\frac{1}{4}$  to the point of beginning; thence South 01° 09' 26" East, 1201.39 feet, parallel with the East line of said NE  $\frac{1}{4}$ ; thence North 89° 31' 26" West, 50.02 feet; thence North 01° 09' 26" West, 1200.98 feet, parallel with the East line of said NE  $\frac{1}{4}$ , to the North line thereof; thence South 90° 00' 00" East, 50.01 feet along the North line of said NE  $\frac{1}{4}$  to the point of beginning.

The above described parcel contains 1.38 acres subject to all easements of record. The North line of the NE  $\frac{1}{4}$  of said Section 34 is used as bearing South 90° 00' 00" East and/or North 90° 00' 00" West in the above description.

Lot A in SE  $\frac{1}{4}$  SE  $\frac{1}{4}$

A part of the Southeast Quarter (SE  $\frac{1}{4}$ ) of the Southeast Quarter (SE  $\frac{1}{4}$ ) of Section Twenty-seven (27), Township 87 North (T-87-N), Range 36 West (R-36-W), of the 5<sup>th</sup> P.M., Sac County, Iowa, and being more fully described as follows:

Beginning at the Southeast (SE) corner of the SE  $\frac{1}{4}$  of Section 27, T-87-N, R-36-W, of the 5<sup>th</sup> P.M., Sac County, Iowa; thence North 90° 00' 00" West, 473.23 feet along the South line of said SE  $\frac{1}{4}$ ; thence North 00° 51' 31" West, 360.00 feet, parallel with the West line of the SE  $\frac{1}{4}$  of said SE  $\frac{1}{4}$ ; thence North 90° 00' 00" West, 329.00 feet, parallel with the South line of said SE  $\frac{1}{4}$ ; thence North 00° 51' 31" West, 70.00 feet, parallel with the West line of the SE  $\frac{1}{4}$  of said SE  $\frac{1}{4}$ ; thence North 90° 00' 00" West, 528.00 feet, parallel with the South line of said SE  $\frac{1}{4}$ , to the West line of the SE  $\frac{1}{4}$  of said SE  $\frac{1}{4}$ ; thence North 00° 51' 31" West, 905.60 feet along the West line of the of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ , to the Northwest (NW) corner thereof; thence South 89° 52' 50" East, 878.46 feet along the North line of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ; thence South 00° 56' 13" East, 567.36 feet, parallel with the East line of said SE  $\frac{1}{4}$ ; thence North 88° 16' 24" East, 449.97 feet to the East line of said SE  $\frac{1}{4}$ ; thence South 00° 56' 13" East, 780.00 feet along the East line of said SE  $\frac{1}{4}$ , to the point of beginning.

The above described Lot A contains 27.00 acres and is subject to all easements of record. The South line of the SE  $\frac{1}{4}$  of said Section 27 is used as bearing North 90° 00' 00" West in the above description.

The taxes levied on the taxable property in the Lake View Urban Renewal Area No. 3 each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 335, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts

upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness or bonds payable from the special fund referred to in subsection 2, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of Ordinance No. 335, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

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

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on

loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

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

*(Ord. 335 – Mar. 00 Supp.)*

**8.05 2009 ADDITION TO THE LAKE VIEW URBAN RENEWAL AREA NO. 3.** The provisions of this section apply to the 2009 Addition to the Lake View Urban Renewal Area No. 3, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on October 5, 2009:

All property covered by Sac County Property Tax Identification Parcel Number 811035200015.

The taxes levied on the taxable property in the Urban Renewal Area Amendment each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area Amendment is located, from and after the effective date of Ordinance No. 422, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area Amendment, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness or bonds payable from the special fund referred to in subsection 2, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area Amendment on the effective date of Ordinance No. 422, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area Amendment to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

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

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

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

*(Ord. 422 – Nov. 11 Supp)*

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## CHAPTER 9

# URBAN REVITALIZATION

### 9.01 Purpose

### 9.02 Urban Revitalization Area

### 9.03 Urban Revitalization Plan

**9.01 PURPOSE.** The purpose of this chapter is to stimulate the improvement of and/or the development of more residential dwellings, commercial buildings, and industrial buildings.

**9.02 URBAN REVITALIZATION AREA.** The entire area within the corporate boundaries of the City of Lake View, Iowa, including all property that has been annexed into the City since April 1, 1997, is hereby declared to be an Urban Revitalization Area pursuant to Chapter 404 of the Code of Iowa.

*(Ord. 411 – Dec. 07 Supp.)*

**9.03 URBAN REVITALIZATION PLAN.** The Urban Revitalization Plan for the City of Lake View, Iowa, on file in the office of the City Clerk/Administrator, is hereby declared to be the Urban Revitalization Plan for that area of the City of Lake View, Iowa designated in Section 9.01 above.

*(Ord. 320-Mar. 98 Supp.)*

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## CHAPTER 15

### MAYOR

15.01 Term of Office  
15.02 Powers and Duties  
15.03 Appointments

15.04 Compensation  
15.05 Voting

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

*(Code of Iowa, Sec. 376.2)*

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, 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. If the Mayor exercises such veto power, the Mayor shall explain the reason for such veto in a written message to the Council at the time of the veto. The Council may override the Mayor's veto by a two-thirds majority of the Council members.

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

5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs

generally, the municipal departments, and recommendations suitable for Council action.

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief
3. Library Board of Trustees
4. Historic Preservation Commission
5. Electric Superintendent

**15.04 COMPENSATION.** The salary of the Mayor is one hundred dollars (\$100.00) monthly plus twenty-five dollars (\$25.00) for each regular and special meeting of the Council attended. Effective January 1, 2000, the salary of the Mayor shall be two hundred dollars (\$200.00) per month plus twenty-five dollars (\$25.00) for each regular and special meeting of the Council attended.

(*Ord. 332 – Apr. 99 Supp.*)  
(*Code of Iowa, Sec. 372.13[8]*)

**15.05 VOTING.** The Mayor is not a member of the Council and shall not vote as a member of the Council. *(Ord. 349 – Sep. 01 Supp.)*  
*(Code of Iowa, Sec. 372.4)*

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## 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 Pro Tem is vice president of the Council.

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

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

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

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

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

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

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

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## CHAPTER 17

### COUNCIL

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

17.04 Meetings  
17.05 Appointments  
17.06 Compensation

**17.01 NUMBER AND TERM OF COUNCIL.** The Council consists of five (5) Council members elected at large for overlapping terms of four (4) years.  
*(Code of Iowa, Sec. 372.4 & 376.2)*

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

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

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

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

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

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

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

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

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

5. Contracts. The Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the Council, or reduced to writing and approved by the Council, or expressly authorized by ordinance or resolution adopted by the Council.

*(Code of Iowa, Sec. 364.2[1] & 384.95 through 384.102)*

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. Approved Action by Council. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the Council members. A motion to spend public funds in excess of ten thousand dollars (\$10,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not less than a majority of the Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

*(Code of Iowa, Sec. 380.4)*

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the Council may repass the ordinance or resolution by a vote of not less than two-thirds of the Council members, and the ordinance or resolution becomes effective upon repassage and publication.

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

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

A. If the Mayor signs the measure, a resolution becomes effective immediately upon signing and an ordinance or



amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

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

B. If the Mayor vetoes a measure 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 published, unless a subsequent effective date is provided within the measure.

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

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

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

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

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

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

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

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

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

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

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

5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk
2. City Attorney
3. Parks and Recreation Commission
4. Planning and Zoning Commission
5. Zoning Board of Adjustment

**17.06 COMPENSATION.** The salary of each Council member is twenty-five dollars (\$25.00) for each regular and special meeting of the Council attended.

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

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## CHAPTER 18

### CITY CLERK

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

**18.01 APPOINTMENT** The City Administrator is ex officio City Clerk and has the duties, powers and functions prescribed in this chapter, by State law and other ordinances of the City.

*(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 RECORDING AND PUBLICATION OF MEETING MINUTES.** The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim.

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

**18.04 RECORDING MEASURES CONSIDERED.** The Clerk shall promptly record each measure considered by the Council, with a statement 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])*

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

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

before the date of the election, hearing or other action, unless otherwise provided by law.

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

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

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

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

*(Code of Iowa, Sec. 380.7[3])*

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

*(Code of Iowa, Sec. 380.11)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election. *(Ord. 361 – Oct. 02 Supp.)*

*(Code of Iowa, Sec. 376.6)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

*(Code of Iowa, Sec. 376.4)*

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

## CHAPTER 19

### CITY TREASURER

19.01 Appointment  
19.02 Compensation

19.03 Duties of Treasurer  
19.04 Boards and Commissions

**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.

**19.04 BOARDS AND COMMISSIONS.** The City Treasurer is the treasurer of the Library Board of Trustees, Historic Preservation Commission and Parks and Recreation Commission and pays out all money under control of such boards on orders signed by the respective Chairpersons and Secretaries of such boards, but receives no additional compensation for such services.



## CHAPTER 20

### CITY ATTORNEY

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

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

**20.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Attorney to serve at the pleasure of the Council. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 21

### LIBRARY BOARD OF TRUSTEES

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

21.07 Nonresident Use  
21.08 Expenditures  
21.09 Annual Report  
21.10 Injury to Books or Property  
21.11 Theft  
21.12 Notice Posted

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

**21.02 LIBRARY TRUSTEES.** The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six (6) resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

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

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive such compensation as may be established by resolution of the Council and may be reimbursed for their actual expenses, which shall be subject to approval of the Council

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer serves as Board Treasurer, but is not a member of the Board.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds (2/3) vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and

of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

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

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

*(Code of Iowa, Ch. 661)*

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

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

*(Code of Iowa, Sec. 714.1)*

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

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

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

*(Code of Iowa, Sec. 714.5)*

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

*(Code of Iowa, Sec. 808.12)*

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## CHAPTER 22

### PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission  
22.02 Term of Office  
22.03 Vacancies

22.04 Compensation  
22.05 Powers and Duties

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

*(Code of Iowa, Sec. 414.6 & 392.1)*

**22.02 TERM OF OFFICE.** The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

**22.04 COMPENSATION.** All members of the Commission shall receive such compensation as may be established by resolution of the Council and may be reimbursed for their actual expenses, which shall be subject to the approval of the Council.

*(Code of Iowa, Sec. 392.1)*

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

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

7. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts,

donations or payments whatsoever which are received by the City for City planning and zoning purposes.

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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## CHAPTER 23

### PARKS AND RECREATION COMMISSION

23.01 Parks and Recreation Commission  
23.02 Term of Office  
23.03 Vacancies  
23.04 Organization  
23.05 Compensation  
23.06 Budget Certified  
23.07 Records and Reports

23.08 Jurisdiction and Authority  
23.09 Poles and Wires  
23.10 Acquisition of Land  
23.11 Sale or Lease of Property  
23.12 Limited Leases  
23.13 Rules and Regulations  
23.14 Penalties

**23.01 PARKS AND RECREATION COMMISSION.** There shall be appointed by the Council a Parks and Recreation Commission, hereinafter referred to as the Commission, consisting of three (3) members, who shall be residents of the City and who shall not hold any elective office in the City government.

**23.02 TERM OF OFFICE.** The term of office of the members of the Commission shall be six (6) years. One member shall be appointed after each regular City election.

*(Code of Iowa, Sec. 392.1)*

**23.03 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)*

**23.04 ORGANIZATION.** Following each regular City election, the Commission shall meet and elect one of its members as Chairperson and one as Secretary.

**23.05 COMPENSATION.** All members of the Commission shall receive such compensation as may be established by resolution of the Council and may be reimbursed for their actual expenses, which shall be subject to the approval of the Council.

*(Code of Iowa, Sec. 392.1)*

**23.06 BUDGET CERTIFIED.** The Commission shall submit to the Council a proposed budget and tax levy for general park purposes for the ensuing fiscal year. The Council shall include such tax levy, or so much thereof as it may deem necessary, in the levy for the General Fund of the City as certified to the County Auditor.

**23.07 RECORDS AND REPORTS.** The Commission shall keep a record of all its transactions and proceedings and submit a detailed annual report to the Council no later than November 1 of each year of the amounts of money expended and the purposes for which used.

**23.08 JURISDICTION AND AUTHORITY.** The Commission has exclusive control of all parks and pleasure grounds or of any other ground owned by the City and set apart for like purposes within the City. All ordinances of the City shall be in full force and effect in and over the territory occupied by such parks.

**23.09 POLES AND WIRES.** The Commission may regulate or forbid the erection of poles or the stretching of wire for electric light, street railway, or other corporations or persons in such parks or in or along streets or highways or over public places laid out or controlled by it.

**23.10 ACQUISITION OF LAND.** The Commission may acquire real estate within or without the City for park purposes by donation, lease, purchase, or condemnation, take the title to real estate in the name of the Commission in trust for the public and hold it exempt from taxation, with approval of the Council.

**23.11 SALE OR LEASE OF PROPERTY.** The Commission may sell, subject to the approval of the Council, exchange, or lease any real estate acquired by it which in its discretion is unfit, not desirable, unnecessary, or not required for park purposes.

**23.12 LIMITED LEASES.** The Commission may lease under reasonable rates and requirements a particular park or portion thereof, as follows:

1. Organizations. For a period not in excess of ten (10) days to charitable, fraternal and patriotic organizations for the conduct of celebrations, anniversaries and entertainment.
2. Professional Games. For such time or times, not to exceed six (6) consecutive months, for the purpose of permitting the playing of professional baseball or other professional games.

**23.13 RULES AND REGULATIONS.** The Commission shall have the power to make rules and regulations for the use of park or other facilities under its control, such rules shall be posted on the facility or otherwise publicized in a manner to provide adequate notice to the public.

**23.14 PENALTIES.** Any person who violates a Commission rule or regulation which has been approved by the Council and adopted by ordinance

may be subjected to the penalties provided for in the ordinance adopting the rule or regulation.

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## CHAPTER 24

# HISTORIC PRESERVATION COMMISSION

24.01 Purpose and Intent  
24.02 Definitions

24.03 Structure of the Commission  
24.04 Powers of the Commission

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

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

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

1. "Commission" means the Lake View Historic Preservation Commission, as established by this chapter.
2. "Historic district" means an area which contains a significant portion of buildings, structures or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:
  - A. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

- B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or
  - C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof which is deemed to add significantly to the value and attractiveness of properties within such area; or
  - D. Is associated with the lives of persons significant in our past; or
  - E. Has yielded, or may be likely to yield, information important in prehistory or history.
3. "Historic site" means a structure or building which:
- A. Is associated with events that have made a significant contribution to the broad patterns of our history; or
  - B. Is associated with the lives of persons significant in our past; or
  - C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  - D. Has yielded, or may be likely to yield, information important in prehistory or history.

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

1. The Commission consists of seven (7) members who are residents of the community. *(Ord. 321, Mar. 98 Supp.)*
2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council for staggered terms of three (3) years. Each term shall commence on January 1. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, conservation in general or real estate.
3. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced. Members may serve for more than one term and each

member shall serve until the appointment of a successor. Vacancies shall be filled by the Mayor according to the original selection as aforesaid.

5. All members shall receive such compensation as may be established by resolution of the Council and may be reimbursed for their actual expenses, which shall be subject to the approval of the Council.

6. A simple majority of the Commission shall constitute a quorum for the transaction of business.

7. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission's proceedings.

8. The Commission shall meet at least three (3) times a year.

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

1. The Commission may conduct inventory studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter. The Commission may proceed at its own initiative or upon a petition from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.

2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.

3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein.

4. In addition to those duties and powers specified above, the Commission may, with Council approval,

A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;

B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;

C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission;

- D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
- E. Contract, with approval of the Council, with State or Federal government or other organizations;
- F. Cooperate with Federal, State and local governments in the pursuance of the objectives of historic preservation;
- G. Provide information for the purpose of historic preservation to the Council; and
- H. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.

## CHAPTER 25

### CITY ADMINISTRATOR

25.01 Appointment and Compensation  
25.02 Mayor and Police Department  
25.03 Responsibility  
25.04 Appointment of Officers

25.05 Powers and Duties  
25.06 Council Retained Powers  
25.07 Mayor's Retained Powers  
25.08 Council Relations

**25.01 APPOINTMENT AND COMPENSATION.** The Council shall appoint by majority vote a City Administrator to hold office at the pleasure of the Council. The City Administrator shall receive such compensation as established by resolution of the Council and shall also receive all personnel benefits available to other employees of the City and any other benefits the Council deems appropriate.

**25.02 MAYOR AND POLICE DEPARTMENT.** The City Administrator shall assist the Mayor in any mayoral duties as requested by the Mayor and approved by the Council. The City Administrator shall have such charge and control of the Police Department as the Mayor may at any time delegate in writing.

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

**25.04 APPOINTMENT OF OFFICERS.** The City Administrator, subject to the approval of the Council, shall have the power to appoint persons to fill all offices for which no other mode of appointment is provided.

**25.05 POWERS AND DUTIES.** The powers and duties of the City Administrator are as follows:

1. To prepare the budget annually and submit it to the Council, together with a message describing the important features;
2. To prepare or supervise the development and administration of such accounting and reporting systems as may be necessary or desirable to accurately reflect the financial condition of the City.

3. To supervise the development and administration of a modern and efficient purchasing system covering the acquisition by the City of services, supplies and materials.
4. To supervise the performance of all contracts of the City, make all purchases of materials and supplies, and see that such materials and supplies are received, and are of the quality and character called for by the contract.
5. To supervise the construction, improvement, repair, maintenance and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.
6. To act for the City in the exercise and execution of all policies and programs whereby the City is involved on a joint basis with any other governmental subdivision, including any subdivision of the government of the State of Iowa or of the United States of America.
7. To attend all meetings of the Council unless excused by the Mayor.
8. To summarily and without notice, investigate the affairs and conduct of any department, agency, officer or employee under the City Administrator's supervision, and compel the production of evidence and attendance of witnesses.
9. To assist the Council, the Planning and Zoning Commission, and all other boards or commissions in the carrying out and revision of the comprehensive plan and all other forms of planning for the future growth and development of the City.
10. To execute, oversee and coordinate the economic development efforts of the City.
11. To develop and administer personnel classification and pay plans; recruit, select, and employ personnel for positions authorized by the Council; reclassify or discharge all employees and set their compensation, subject to Council approval and provisions of the Veterans' Preference Law; supervise the official conduct and work response of all officers and employees appointed or employed by the City Administrator; and evaluate or oversee evaluations of the performance of all City employees.
12. To recommend to the Council such measures as the City Administrator may deem necessary or expedient for the good government and welfare of the City.

13. To supervise enforcement and execution of the City laws; investigate all complaints in relation to matters concerning the administration of the government of the City; and see that all franchises, permits, and privileges granted by the City are faithfully observed.

14. To keep the Council informed on the progress of all its programs and status of its policies. The City Administrator shall also coordinate and direct all municipal services provided through the various departments.

15. To carry on the management of any present board or commission if such board or commission is abolished or ceases to exist.

16. To perform other duties at the Council's direction, including those specified by statute or ordinance for the City Clerk.

**25.06 COUNCIL RETAINED POWERS.** Without limitation, the Council specifically retains the power to control and direct the activities of the City Administrator and to make and establish the policies of the City.

**25.07 MAYOR'S RETAINED POWERS.** Without limitation, the Mayor specifically retains the following powers:

1. To function as the chief elected official with responsibility for the general public relations of the City and inter-governmental affairs;
2. To preside at all Council meetings;
3. To cooperate with the City Administrator in the furtherance of the policies of the Council;
4. To fulfill all legal obligations and responsibilities provided by ordinance or State law.

**25.08 COUNCIL RELATIONS.** The City Administrator shall not take part in any City election except by casting a vote and shall not appoint a City elected official to any City office or employment.

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## CHAPTER 30

### POLICE DEPARTMENT

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

30.07 Police Chief: Duties  
30.08 Departmental Rules  
30.09 Summoning Aid  
30.10 Taking Weapons  
30.11 Contract Law Enforcement

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

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

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

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

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

*(Code of Iowa, Sec. 80B.11 [2])*

*(IAC, 501-3 and 501-8)*

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

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

*(Ord. 349 – Sep. 01 Supp.)*

*(Code of Iowa, Sec. 372.4)*

**30.07 POLICE CHIEF: DUTIES.** The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the police chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.  
*(Code of Iowa, Sec. 321.266)*
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

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

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

*(Code of Iowa, 804.17)*

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

*(Code of Iowa, 804.18)*

**30.11 CONTRACT LAW ENFORCEMENT.** In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

*(Code of Iowa, Sec. 28E.30)*

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## CHAPTER 31

### RESERVE POLICE UNIT

31.01 Creation Authority; Bylaws  
31.02 Member Qualifications

31.03 Member Powers

**31.01 CREATION AUTHORITY; BYLAWS.** Pursuant to Chapter 80D of the Code of Iowa, the Mayor is authorized to organize a Reserve Police Unit for the purpose of assisting the Police Chief and peace officers in handling civil disorders or crowds and traffic at large public gatherings, conducting searches for persons and property, and assisting in the event of natural disasters or national emergencies. Members of the Unit will also assist in the daily duties of the Police Department and any other functions as designated by the Police Chief. The Unit shall adopt bylaws for its operation, as well as rules and regulations governing members of the Unit. Said bylaws are to be approved by the Police Chief, the Mayor and Council, with the advice of the City Attorney.

**31.02 MEMBER QUALIFICATIONS.** Members recruited for the Reserve Police Unit shall meet tests of residency, age, physical fitness, character, community reputation and conduct so as to assure suitable personnel. As specified in the bylaws, acceptance into the Unit shall be conditional upon approval of the Mayor, Council and Police Chief. The standards and training are to be set out in the constitution, bylaws and with the advice and consent of the Police Chief. All standards and training required under Chapter 80D of the Code of Iowa shall constitute the minimum standards for police reserve officers.

**31.03 MEMBER POWERS.** Members shall have police powers in accordance with Chapter 80D of the Code of Iowa and subject to special direction of the Police Chief and the Reserve bylaws.

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## CHAPTER 35

### FIRE DEPARTMENT

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

35.08 Obedience to Fire Chief  
35.09 Constitution  
35.10 Accidental Injury Insurance  
35.11 Liability Insurance  
35.12 Calls Outside City  
35.13 Mutual Aid  
35.14 Authority to Cite Violations

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

*(Code of Iowa, Sec. 364.16)*

**35.02 ORGANIZATION.** The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council.

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

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

**35.04 TRAINING.** All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

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

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

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

**35.06 ELECTION OF OFFICERS.** The department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of Fire Chief shall be subject to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

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

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

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

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

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.2)*

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

*(Code of Iowa, Sec. 102.3)*

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire



Marshal's Division immediately. For all fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

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

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

*(Code of Iowa, Sec. 100.4)*

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 100.41)*

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## CHAPTER 40

### PUBLIC OFFENSES

40.01 Disturbing the Peace; Noise	40.07 Throwing and Shooting
40.02 Spitting	40.08 Urinating and Defecating
40.03 Abandoned or Unattended Refrigerators	40.09 Fireworks Permit
40.04 Antenna and Radio Wires	40.10 Defacing Public Grounds
40.05 Barbed Wire and Electric Fences	40.11 Injuring New Pavement
40.06 Discharging Weapons	40.12 Obstructing Drainage
	40.13 Disorderly Conduct

**40.01 DISTURBING THE PEACE; NOISE.** It is unlawful for a person to disturb the peace by excessive, loud or unusual noise, loud music, by blowing horns or ringing bells or by the use of sirens, radios or any type of speaking devices or noise makers which can be heard fifty (50) feet from the origin of the noise.

**40.02 SPITTING.** It is unlawful for a person to spit within any food establishment, restaurant, hotel, motor inn, cocktail lounge or tavern.

**40.03 ABANDONED OR UNATTENDED REFRIGERATORS.** No person shall abandon or otherwise leave unattended and/or unsecured 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)*

**40.04 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])*

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

**40.06 DISCHARGING WEAPONS.**

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, BB 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.
3. Discharging weapons for the purpose of hunting wildlife is permitted on lands owned by the Iowa Department of Natural Resources and on the waters of Black Hawk Lake if hunting on said land or water is permissible under the Iowa Code and regulations of the Iowa Department of Natural Resources. *(Ord. 367 – Nov. 02 Supp.)*

**40.07 THROWING AND SHOOTING.** It is unlawful for a person to throw snowballs, water balloons, stones, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys at any moving vehicle; or 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])*

**40.08 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.

**40.09 FIREWORKS.**

A. It is unlawful for any person to use or explode any fireworks or novelties as defined in Section 727.2 of the Code of Iowa on city-owned property including campgrounds, parks, parking lots, and rights-of-way.

B. A person who uses or explodes consumer fireworks or novelties where the use of such devices is prohibited or limited by this ordinance commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

C. The City 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 City authorities when such display fireworks will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

1. Personal Injury: - \$250,000.00 per person.
2. Property Damage: - \$50,000.00.
3. Total Exposure: - \$1,000,000.00.  
(Code of Iowa, Sec. 727.2)

**40.10 DEFACING PUBLIC GROUNDS.** It is unlawful for any unauthorized person to cut, break or deface any tree or shrub on public property or on any public way by willfully defacing, cutting, breaking or injuring.  
(Code of Iowa, Sec. 364.1, 364.12[2])

**40.11 INJURING NEW PAVEMENT.** It is unlawful for a person to injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.  
(Code of Iowa, Sec. 364.12)

**40.12 OBSTRUCTING DRAINAGE.** It is unlawful to divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or to break down any levee lawfully established, constructed or maintained.  
(Code of Iowa, Sec. 716.1)

**40.13 DISORDERLY CONDUCT.** No person shall be 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 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

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

B. Direct abusive epithets or make any threatening gesture 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)*

*Sec. 40.13 – Ord. 435 – Nov. 11 Supp.)*

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## CHAPTER 41

# DRUG PARAPHERNALIA

41.01 Definitions

41.02 Determining Factors

41.03 Drug Paraphernalia Prohibited

41.04 Manufacture or Delivery of Drug Paraphernalia  
Prohibited

41.05 Penalties for Violation

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

1. “Controlled substance” has the same meaning as contained in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
2. “Drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:
  - A. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - B. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
  - C. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
  - D. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances except for such equipment of a peace officer or any person acting as an agency of or under the direction of any police agency.

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

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

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

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

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

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

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

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

- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (2) Water pipes, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, bongs, ice pipes or chillers;
- (3) Carburetion tubes and devices;
- (4) Smoking and carburetion masks;
- (5) Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- (6) Miniature cocaine spoons and cocaine vials.

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

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
4. Proximity To Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
7. Instructions. Instructions, oral or written, provided with the object concerning its use.
8. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
9. Manner Displayed. The manner in which the object is displayed for sale.
10. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
11. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
12. Expert Testimony. Expert testimony concerning its use.

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

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

**41.05 PENALTIES FOR VIOLATION.** Any person convicted of a violation of any provisions of this chapter shall be guilty of a simple misdemeanor.  
*(Ord. 342 – Dec. 00 Supp.)*

*(Ch. 41 - Ord. 330 - Nov. 98 Supp.)*

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## CHAPTER 45

# ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 (Repealed by Ord. 436)

45.04 Open Container on Streets and Highways

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

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

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

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

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

*(Ord. 436 – Nov. 11 Supp.)*

## **45.02 PUBLIC CONSUMPTION OR INTOXICATION.**

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

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

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

C. "Peace Officer" means the same as defined in Section 801.4 of the Code of Iowa.

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

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

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

*(Code of Iowa, Sec. 123.46)*

*(Ord. 436 – Nov. 11 Supp.)*

**45.03** *(Repealed by Ordinance No. 436 – Nov. 11 Supp.)*

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

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## CHAPTER 46

### MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

#### 46.01 CURFEW.

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

A. “Minor” means any unemancipated person seventeen (17) years of age or younger.

B. “Public place” includes all places where members of the public have unrestricted access. The term “public place” does not include a sidewalk immediately adjacent to a minor’s residence or usual place of abode.

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

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

A. It is unlawful for any minor to be in or remain upon any of the alleys, streets or public places of the City or within any business establishments of the City between the hours of eleven o’clock (11:00) p.m. and five o’clock (5:00) a.m. of the following day, Sunday through Thursday, local time.

B. It is unlawful for any minor to be in or remain upon any of the alleys, streets or public places of the City or within any business establishments of the City between the hours of twelve o’clock (12:00) midnight and five o’clock (5:00) a.m. of the following day, Friday and Saturday, local time.

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

A. The minor is under the supervision and control of a guardian, parent or other person not a minor with the written consent of the parent or guardian.

B. The minor is attending a church, religious, governmental or school activity, or is engaged in lawful employment activities or is participating in a meeting, gathering or other assembly for

the purpose of exercising rights and privileges granted to all citizens, including minors, under the First Amendment of the United States Constitution or is engaged in interstate travel.

C. The minor is traveling, by any means, between his or her place of employment or an activity described in the preceding subsection, to his or her place of residence or from said place of residence to place of employment or other activity.

4. Responsibility of Adults. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to violate the provisions of this section.

5. Mayor's Extension of Hours. Where exceptional circumstances exist because of an economic, ethnic, social, religious, cultural event or special school function within the City, the Mayor, by decree, may extend the hours of curfew for said event if the presence of any minor at said event would be of benefit to said minor and serve the public interest. Examples of such events are proms, dances and assemblages for the purposes stated herein. If a decree by the Mayor is issued extending curfew, the decree shall be written stating the reasons therefor and the Mayor or Clerk shall notify law enforcement agencies and the local news media.

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

*(Ord. 344 – Dec. 00 Supp.)*

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

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

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



## CHAPTER 47

### PARK REGULATIONS

47.01 Purpose  
47.02 Parking  
47.03 Use of Drives Required  
47.04 Fires  
47.05 Littering

47.06 Camping Fees  
47.07 Camp Registration  
47.08 Camping Refused  
47.09 Crescent Beach Concessions  
47.10 Crescent Beach Hours  
47.11 Campground Manager

**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 PARKING.** All vehicles must be parked in designated parking areas, and no vehicle shall be left unattended on any park drive, road or street, except in the case of an emergency.

**47.03 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 or on any City or school property except upon the established drives or roadways therein or such other places as may be officially designated by the City.

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

**47.05 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.

**47.06 CAMPING FEES.** The Council may establish, by resolution, such fees for camping and other special privileges as it deems appropriate and reasonable.

**47.07 CAMP REGISTRATION.** Any person who camps in any park shall register his or her name and address with the supervisor and advise such official when camp is vacated.

**47.08 CAMPING REFUSED.** The City may refuse camping privileges or rescind any and all camping privileges for cause.

**47.09 CRESCENT BEACH CONCESSIONS.** Any person wishing to operate a concession selling products of any type at Crescent Beach must first obtain permission from the Council, sign an agreement mutually arrived at, and pay a fee as determined by the Council. Permission must be secured annually on or before May 1 of each year.

**47.10 CRESCENT BEACH HOURS.** No person shall enter or remain in the Crescent Beach area or boat ramp area between the hours of 10:30 p.m. and 4:00 a.m.

**47.11 CAMPGROUND MANAGER.** Annually the City Council shall appoint a Campground Manager. The City Council shall adopt by resolution the Campground policies, including those stated above, and those regulations contained in the Campground Policy & Rules Handbook. The City Council shall adopt by resolution the grant of power given to the Manager, authorizing the enforcement of said policies, rules and regulations, whether by citation, warning notices, or other policing policies. *(Ord. 424 – Nov. 11 Supp.)*

**CHAPTER 48**

**RESIDENCY RESTRICTIONS FOR SEX OFFENDERS**

**(REPEALED BY ORDINANCE NO. 437 – NOV. 11 SUPP.)**

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## CHAPTER 50

### NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance  
50.02 Nuisances Enumerated  
50.03 Other Conditions  
50.04 Nuisances Prohibited  
50.05 Nuisance Abatement  
50.06 Notice to Abate: Contents  
50.07 Method of Service

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

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

*(Code of Iowa, Sec. 657.1)*

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

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

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

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

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

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

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

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

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

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

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

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.09)**

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

7. Cottonwood Trees. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees. **(See also Chapter 151)**

*(Code of Iowa, Sec. 657.2[8])*

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

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

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

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

10. 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.

*(Code of Iowa, 657.2[12])*

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

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

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

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

13. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the Code of Iowa or places resorted to by persons using controlled substances, as defined in Section 124.101 of the Code of

Iowa, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

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

14. Exits and Entrances Which Create Hazards. All ladders or other means of gaining entrance to or providing exits from buildings, the use of which creates a potential hazard to the welfare of the general public.

15. Creating, maintaining, causing or allowing to exist any stagnant water standing on any property, including any container or material kept in such a condition that water can accumulate and stagnate therein.

16. Creating, maintaining, causing or allowing to exist conditions which are conducive to the harborage or breeding of vermin; or allowing to exist infestations of vermin, such as rats, mice, skunks, snakes, bats, starlings, pigeons, wasps, cockroaches, mosquitoes or flies.

*(Ord. 478 – Jan. 17 Supp.)*

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**
5. Construction and Repair of Buildings **(See Chapter 155)**

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

*(Code of Iowa, Sec. 657.3)*

**50.05 NUISANCE ABATEMENT.** Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

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

**50.06 NOTICE TO ABATE: CONTENTS.** The notice to abate shall contain:

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

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

**50.07 METHOD OF SERVICE.** The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

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

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

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

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

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

**50.11 COLLECTION OF COSTS.** The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to



abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

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

*(Code of Iowa, Sec. 364.13)*

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

**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.

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## CHAPTER 51

### JUNK AND JUNK VEHICLES

#### 51.01 Definitions

#### 51.02 Junk and Junk Vehicles Prohibited

#### 51.03 Junk and Junk Vehicles a Nuisance

#### 51.04 Exceptions

#### 51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, tires, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk. *(Ord. 477 – Jan. 17 Supp.)*

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

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

B. Broken or Loose Part. Any vehicle with a broken or loose fender, door, bumper, hood, hood ornament, door handle, window handle, running board, steering wheel, trunk top, trunk handle, radio aerial, tail pipe or decorative piece.

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

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

E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more. *(Ord. 412 – Dec. 07 Supp.)*

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

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

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

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

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

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

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

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.

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

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

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## CHAPTER 55

# ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.14 Number of Animals
55.02 Animal Neglect	55.15 Sanitation
55.03 Livestock Neglect	55.16 Annoyance or Disturbance
55.04 Cruelty to Animals	55.17 Keeping of Vicious or Dangerous Animals Prohibited
55.05 Injuries to Animals	55.18 Owner's Duty
55.06 Animal Contests	55.19 Confinement
55.07 Abandonment of Cats and Dogs	55.20 Right to Kill Untagged Dogs
55.08 Livestock	55.21 Right to Kill Tagged Dogs
55.09 License	55.22 Disposal of Other Animals
55.10 Immunization	55.23 Impoundment
55.11 Kennels	55.24 Disposition of Animals
55.12 At Large Prohibited	55.25 Dog Ownership
55.13 Damage or Interference	55.26 Violation and Penalty

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

1. "Animal" means a nonhuman vertebrate.  
*(Code of Iowa, Sec. 717B.1)*
2. "At large" means any animal off the premises of its owner and on other premises against the wishes of the person in possession of such other premises or upon the public streets, alleys, public grounds, school grounds or parks within the City. An animal shall not be deemed at large if:
  - A. The animal is on the owner's property or a neighbor's property with that neighbor's consent; or
  - B. The animal is confined in a cage or motor vehicle; or
  - C. The dog is restrained by a leash of sufficient strength to control its action; or  
*(Ord. 387 – May 04 Supp.)*
  - D. A dog is actively engaged in training in dog obedience, for hunting or for other service under continual control of his/her owner or trainer provided that the owner or trainer is conducting the training in an open public area, is not endangering other users or animals in the area, has the dog within 30 yards and under continual voice control and has in his/her possession a dog leash appropriate to control the dog.
  - E. The animal is a draft animal engaged in drawing vehicles or conveyances.

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

*(Code of Iowa, Sec. 717.1)*

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

5. “Dangerous Animal” means:

A. Any animal which is not naturally tamed or gentle; and which is of a wild nature or disposition; and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so.

B. Any animal declared to be dangerous by the County Board of Health, City Council, or any other governing body.

C. The following animals, which shall be deemed to be dangerous per se: Lions, tigers, jaguars, leopards, cougars, lynx and bobcats; wolves, coyotes and foxes; badgers, wolverines, weasels, skunks and mink, raccoons; bears; monkeys and chimpanzees; bats; alligators and crocodiles; scorpions; snakes that are venomous or constrictors; gila monsters; pit bull dogs.

6. “Vicious Animal” means any animal, except a dangerous animal per se as listed above, that has chased or attacked or bitten or has attempted to bite or claw a person or persons while running at large and the attack was unprovoked; any animal that has chased, killed or maimed any domestic animal or fowl, or if such animal has been deemed vicious by the court, County Board of Health, City Council, or other governing body; or when the propensity to attack or bite persons or to chase, kill, or maim domestic animals or fowl shall exist and is known or ought reasonably to be known to the owner.

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

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

**55.03 LIVESTOCK NEGLECT.** It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care

consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

*(Code of Iowa, Sec. 717.2)*

**55.04 CRUELTY TO ANIMALS.** It shall be unlawful for a person to torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, cruelly beat, cruelly kill any animal, or unnecessarily fail to provide the same with proper food, drink, shelter, or protection from the weather, or drive or work the same when unfit for labor, or cruelly abandon the same, or carry the same, or cause the same to be cruelly carried on any vehicle or otherwise, or to commit any other act or omission by which unjustifiable pain, distress, suffering, or death is caused or permitted to any animal, whether the acts or omissions herein contemplated be committed either intentionally or negligently.

*(Code of Iowa, Sec. 717.2)*

**55.05 INJURIES TO ANIMALS.** No person, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal

**55.06 ANIMAL CONTESTS.** It shall be unlawful for a person to keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, or to engage in, aid, abet, encourage, or assist in any bull, bear, dog, or cock fight, or a fight between any other creatures.

*(Code of Iowa, Sec. 717.3)*

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

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

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

**55.09 LICENSE.** A license must be obtained from City Hall for any dog or cat over the age of four (4) months. Owners of a dog or cat requiring a license shall register the animal within 30 days of the animal meeting the residency and age requirements.

1. Fee. The fee for a City license shall become due and payable between April 1 and June 30 of every other year starting in 2004. The bi-annual fee shall be \$ 7.50 for each dog or cat. The fee will be the same no matter when purchased in the two year cycle.
2. Delinquent Fee. License becomes delinquent July 1, with an additional delinquent fee of five dollars (\$5.00) charged for licenses purchased after that date.
3. License Tag. The license, which shall be stamped with the license number, shall be fastened to a collar or harness, which shall be worn by the dog or cat for which the license was issued.
4. Unlicensed Dogs or Cats. Any dog or cat found running at large without the license tag attached to its collar shall be deemed unlicensed.
5. Visitors and Seasonal Residents. In lieu of obtaining a City of Lake View pet license, owners of a dog or cat requiring a license may register the pet license number duly issued by another city.

*(Ord. 387 – May 04 Supp.)*

**55.10 IMMUNIZATION.** All dogs and cats six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog or cat license. It shall be a violation of this chapter for any dog or cat to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog or cat when not confined.

*(Ord. 387 – May 04 Supp.)*

*(Code of Iowa, Sec. 351.33)*

**55.11 KENNELS.** Dogs kept in State or Federally licensed kennels, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

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



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

**55.14 NUMBER OF ANIMALS.** No person shall harbor or maintain such number of dogs or cats, or combination thereof, to create unhealthful or unsanitary conditions for the humans or animals occupying the premises, or create any other conditions constituting a nuisance. If such conditions exist, the Chief of Police is authorized to make an investigation, and after notice to the person or persons occupying or maintaining the residence or premises, or the persons harboring or maintaining the animals, and hearing, the Chief of Police may order such number of the animals be moved from the residence or premises to remedy or correct the unhealthful, unsanitary or other conditions constituting a nuisance. Upon the failure of the person or persons to follow the orders, appropriate action may be pursued in the courts to either enforce the order and/or correct the conditions and/or abate the nuisance.

**55.15 SANITATION.** It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person. The owner or person having custody of the animal shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.

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

**55.17 KEEPING OF VICIOUS OR DANGEROUS ANIMALS PROHIBITED.** It shall be unlawful for any person to harbor, keep, or shelter any dangerous or vicious animal as a pet, or act as a temporary custodian for such animal, or keep, shelter, or harbor such animal for any other purpose or in any other capacity within the City exempt as provided in this section:

1. Dangerous Animal Exceptions. The prohibition captured in this section shall not apply to the keeping of dangerous animals in the following circumstances:

- A. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibits, or shows.

B. The keeping of dangerous animals in a bona fide, licensed veterinary hospital or animal shelter for treatment or boarding.

C. Any dangerous animals under the jurisdiction of and in the possession of the Department of Natural Resources, pursuant to Chapters 109 and 109A of the Code of Iowa.

2. Vicious Animal Exception. The prohibition contained in this section shall not apply to the keeping of vicious animals, which are under the control of a law enforcement or military agency.

3. Disposition of Dangerous or Vicious Animals. It shall be unlawful for any person to harbor or keep a dangerous or vicious animal within the City limits. In the event that a dangerous or vicious animal is found at large and unattended, it shall be lawful and the duty of all peace officers within their jurisdiction to kill any animal that has been determined to be dangerous or vicious through violation of this chapter. The City shall be under no duty to attempt the confinement or capture of a dangerous or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction. The City will take immediate action in the proper disposal of the remains of the destroyed animal. Any costs incurred by the City in the destruction and disposal of the animal will be the responsibility of the animal owner.

**55.18 OWNER'S DUTY.** It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

*(Code of Iowa, Sec. 351.38)*

**55.19 CONFINEMENT.** When a Peace Officer, Employee, City Council Member, or Mayor of the City of Lake View receives information that an animal has bitten any person or that a dog or animal is suspected of having rabies, the owner shall be ordered to confine such animal in the manner directed. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by the City of Lake View, and after ten days the City may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

*(Ord. 438 – Nov. 11 Supp.)*

**55.20 RIGHT TO KILL UNTAGGED DOGS.** It shall be lawful for a peace officer to kill any dog for which a rabies vaccination tag is required, when such dog is not wearing a collar with vaccination tag attached as herein provided.

*(Code of Iowa, Sec. 351.26)*

**55.21 RIGHT TO KILL TAGGED DOGS.** It shall be lawful for a peace officer to kill a dog, licensed and wearing a collar with a rabies vaccination tag attached, when the dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

*(Code of Iowa, Sec. 351.27)*

**55.22 DISPOSAL OF OTHER ANIMALS.** If the owner of any animal apprehended, other than a dog, cannot be located after a reasonable effort by local authorities such animal may be humanely destroyed or otherwise disposed of in accordance with the law.

**55.23 IMPOUNDMENT.** Dogs found at large shall be seized and impounded, and/or the owner may be served a summons to appear before a proper court to answer charges made. Upon payment of actual expenses incurred by the City of Lake View for the impoundment of the dog plus Cost Recovery Fee of \$18.00 for City time spent on the impoundment of the dog. Upon payment of these fees, the owner may claim any impounded dog. If the animal is not claimed, and ownership of the dog can be established, these expenses and fees may be recovered from the owner of the dog.

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

**55.25 DOG OWNERSHIP.** If after two (2) written citations by the police department for any violation of this chapter on animal control and protection, the dog owner or other persons residing at the same residence is no longer allowed to own or possess a dog for a minimum of two (2) years.

**55.26 VIOLATION AND PENALTY.** Any person who violates a section as contained in this chapter will be subject to a civil penalty of \$50.00 per occurrence.

*(Ch. 55 – Ord. 380 – Mar. 04 Supp.)*

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## CHAPTER 60

### ADMINISTRATION OF TRAFFIC CODE

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

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

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

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

*(Code of Iowa, Sec. 321.1)*

1. “Business District” means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.
10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
11. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

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

*(Code of Iowa, Sec. 321.273 & 321.274)*

**60.06 PEACE OFFICER'S AUTHORITY.** Any peace officer is authorized to stop any vehicle to require exhibition of the driver's motor vehicle license, 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, 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.

*(Code of Iowa, Sec. 321.492)*

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

*(Code of Iowa, Sec. 321.229)*

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

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Police Chief. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.
3. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.
4. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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## CHAPTER 61

### TRAFFIC CONTROL DEVICES

61.01 Installation  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

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

*(Code of Iowa, Sec. 321.255)*

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

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

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

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

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

*(Code of Iowa, Sec. 321.255)*

**61.05 COMPLIANCE.** No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer.

*(Code of Iowa, Sec. 321.256)*

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## CHAPTER 62

### GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations  
62.02 Play Streets Designated  
62.03 Vehicles on Sidewalks  
62.04 Clinging to Vehicle  
62.05 Quiet Zones  
62.06 Funeral Processions

62.07 Tampering with Vehicle  
62.08 Open Containers in Motor Vehicles  
62.09 Obstructing View at Intersections  
62.10 Reckless Driving  
62.11 Excessive Acceleration  
62.12 Disturbing the Peace with a Motor Vehicle

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

1. Section 321.17 - Misdemeanor to violate registration provisions.
2. Section 321.32 - Registration card, carried and exhibited.
3. Section 321.37 - Display of plates.
4. Section 321.38 - Plates, method of attaching, imitations prohibited.
5. Section 321.79 - Intent to injure.
6. Section 321.91 - Penalty for abandonment.
7. Section 321.98 - Operation without registration.
8. Section 321.99 - Fraudulent use of registration.
9. Section 321.174 - Operators licensed.
10. Section 321.174A - Operation of motor vehicles with expired license.
11. Section 321.180 - Instruction permits.
12. Section 321.180B - Graduated driver's licenses for persons aged fourteen through seventeen.
13. Section 321.193 - Restricted licenses.
14. Section 321.194 - Special minor's licenses.
15. Section 321.216 - Unlawful use of license and nonoperator's identification card.

16. Section 321.216B - Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.
17. Section 321.216C - Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.
18. Section 321.219 - Permitting unauthorized minor to drive.
19. Section 321.220 - Permitting unauthorized person to drive.
20. Section 321.221 - Employing unlicensed chauffeur.
21. Section 321.222 - Renting motor vehicle to another.
22. Section 321.223 - License inspected.
23. Section 321.224 - Record kept.
24. Section 321.232 - Radar jamming devices; penalty.
25. Section 321.234A - All-terrain vehicles.
26. Section 321.235A - Electric personal assistive mobility devices.
27. Section 321.247 - Golf cart operation on City streets.
28. Section 321.259 - Unauthorized signs, signals or markings.
29. Section 321.260 - Interference with devices, signs or signals; unlawful possession.
30. Section 321.262 - Damage to vehicle.
31. Section 321.263 - Information and aid.
32. Section 321.264 - Striking unattended vehicle.
33. Section 321.265 - Striking fixtures upon a highway.
34. Section 321.275 - Operation of motorcycles and motorized bicycles.
35. Section 321.278 - Drag racing prohibited.
36. Section 321.288 - Control of vehicle; reduced speed.
37. Section 321.295 - Limitation on bridge or elevated structures.
38. Section 321.297 - Driving on right-hand side of roadways; exceptions.
39. Section 321.298 - Meeting and turning to right.
40. Section 321.299 - Overtaking a vehicle.
41. Section 321.302 - Overtaking and passing.

42. Section 321.303 - Limitations on overtaking on the left.
43. Section 321.304 - Prohibited passing.
44. Section 321.306 - Roadways laned for traffic.
45. Section 321.307 - Following too closely.
46. Section 321.308 - Motor trucks and towed vehicles; distance requirements.
47. Section 321.309 - Towing; convoys; drawbars.
48. Section 321.310 - Towing four-wheel trailers.
49. Section 321.312 - Turning on curve or crest of grade.
50. Section 321.313 - Starting parked vehicle.
51. Section 321.314 - When signal required.
52. Section 321.315 - Signal continuous.
53. Section 321.316 - Stopping.
54. Section 321.317 - Signals by hand and arm or signal device.
55. Section 321.319 - Entering intersections from different highways.
56. Section 321.320 - Left turns; yielding.
57. Section 321.321 - Entering through highways.
58. Section 321.322 - Vehicles entering stop or yield intersection.
59. Section 321.323 - Moving vehicle backward on highway.
60. Section 321.323A - Approaching certain stationary vehicles.
61. Section 321.324 - Operation on approach of emergency vehicles.
62. Section 321.324A - Funeral processions.
63. Section 321.329 - Duty of driver - pedestrians crossing or working on highways.
64. Section 321.330 - Use of crosswalks.
65. Section 321.332 - White canes restricted to blind persons.
66. Section 321.333 - Duty of drivers.
67. Section 321.340 - Driving through safety zone.
68. Section 321.341 - Obedience to signal of train.
69. Section 321.342 - Stop at certain railroad crossings; posting warning.

70. Section 321.343 - Certain vehicles must stop.
71. Section 321.344 - Heavy equipment at crossing.
72. Section 321.344B - Immediate safety threat; penalty.
73. Section 321.354 - Stopping on traveled way.
74. Section 321.359 - Moving other vehicle.
75. Section 321.362 - Unattended motor vehicle.
76. Section 321.363 - Obstruction to driver's view.
77. Section 321.364 - Preventing contamination of food by hazardous material.
78. Section 321.365 - Coasting prohibited.
79. Section 321.367 - Following fire apparatus.
80. Section 321.368 - Crossing fire hose.
81. Section 321.369 - Putting debris on highway.
82. Section 321.370 - Removing injurious material.
83. Section 321.371 - Clearing up wrecks.
84. Section 321.372 - School buses.
85. Section 321.381 - Movement of unsafe or improperly equipped vehicles.
86. Section 321.381A - Operation of low-speed vehicles.
87. Section 321.382 - Upgrade pulls; minimum speed.
88. Section 321.383 - Exceptions; slow vehicles identified.
89. Section 321.384 - When lighted lamps required.
90. Section 321.385 - Head lamps on motor vehicles.
91. Section 321.386 - Head lamps on motorcycles and motorized bicycles.
92. Section 321.387 - Rear lamps.
93. Section 321.388 - Illuminating plates.
94. Section 321.389 - Reflector requirement.
95. Section 321.390 - Reflector requirements.
96. Section 321.392 - Clearance and identification lights.
97. Section 321.393 - Color and mounting.

98. Section 321.394 - Lamp or flag on projecting load.
99. Section 321.395 - Lamps on parked vehicles.
100. Section 321.398 - Lamps on other vehicles and equipment.
101. Section 321.402 - Spot lamps.
102. Section 321.403 - Auxiliary driving lamps.
103. Section 321.404 - Signal lamps and signal devices.
104. Section 321.404A - Light-restricting devices prohibited.
105. Section 321.405 - Self-illumination.
106. Section 321.408 - Back-up lamps.
107. Section 321.409 - Mandatory lighting equipment.
108. Section 321.415 - Required usage of lighting devices.
109. Section 321.417 - Single-beam road-lighting equipment.
110. Section 321.418 - Alternate road-lighting equipment.
111. Section 321.419 - Number of driving lamps required or permitted.
112. Section 321.420 - Number of lamps lighted.
113. Section 321.421 - Special restrictions on lamps.
114. Section 321.422 - Red light in front.
115. Section 321.423 - Flashing lights.
116. Section 321.430 - Brake, hitch and control requirements.
117. Section 321.431 - Performance ability.
118. Section 321.432 - Horns and warning devices.
119. Section 321.433 - Sirens, whistles and bells prohibited.
120. Section 321.434 - Bicycle sirens or whistles.
121. Section 321.436 - Mufflers, prevention of noise.
122. Section 321.437 - Mirrors.
123. Section 321.438 - Windshields and windows.
124. Section 321.439 - Windshield wipers.
125. Section 321.440 - Restrictions as to tire equipment.
126. Section 321.441 - Metal tires prohibited.
127. Section 321.442 - Projections on wheels.

- 128. Section 321.444 - Safety glass.
- 129. Section 321.445 - Safety belts and safety harnesses; use required.
- 130. Section 321.446 - Child restraint devices.
- 131. Section 321.449 - Motor carrier safety regulations.
- 132. Section 321.450 - Hazardous materials transportation.
- 133. Section 321.454 - Width of vehicles.
- 134. Section 321.455 - Projecting loads on passenger vehicles.
- 135. Section 321.456 - Height of vehicles; permits.
- 136. Section 321.457 - Maximum length.
- 137. Section 321.458 - Loading beyond front.
- 138. Section 321.460 - Spilling loads on highways.
- 139. Section 321.461 - Trailers and towed vehicles.
- 140. Section 321.462 - Drawbars and safety chains.
- 141. Section 321.463 - Maximum gross weight.
- 142. Section 321.465 - Weighing vehicles and removal of excess.
- 143. Section 321.466 - Increased loading capacity; registration.

*(Ord. 439 – Nov. 11 Supp.)*

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

*(Code of Iowa, Sec. 321.255)*

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

**62.04 CLINGING TO VEHICLE.** No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates,



in-line skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

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

**62.06 FUNERAL PROCESSIONS.** Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

*(Code of Iowa, Sec. 321.324A)*

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

**62.08 OPEN CONTAINERS IN MOTOR VEHICLES.**

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

*(Code of Iowa, Sec. 321.284)*

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

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

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

*(Ord. 440 – Nov. 11 Supp.)*

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

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

*(Code of Iowa, Sec. 321.277)*

**62.11 EXCESSIVE ACCELERATION.** It is unlawful for any person in the operation of a motor vehicle, including motorcycles, to so accelerate such vehicle as to cause audible noise by the friction of the tires on any surface or to cause the tires of the vehicle to leave marks on any surface or to throw sand and gravel, or to cause the wheel of a motorcycle or motorized vehicle to leave the ground more than two (2) inches, except when such acceleration is reasonably necessary to avoid a collision.

**62.12 DISTURBING THE PEACE WITH A MOTOR VEHICLE.** It is unlawful to disturb the peace and quiet of any street, alley, avenue, public place, religious or public assembly, neighborhood, private family or person by loud or unusual noise caused by the operation of a motor vehicle or by playing loud music within the vehicle which can be heard at a distance of fifty (50) feet from the vehicle.

## CHAPTER 63

### SPEED REGULATIONS

63.01 General  
63.02 Business District  
63.03 Residence or School District  
63.04 Suburban District  
63.05 Parks, Cemeteries and Parking Lots  
63.06 Minimum Speed  
63.07 Emergency Vehicles

63.08 Special Speed Restrictions  
63.09 Special 15 MPH Speed Zones  
63.10 Special 20 MPH Speed Zones  
63.11 Special 25 MPH Speed Zones  
63.12 Special 35 MPH Speed Zones  
63.13 Special 45 MPH Speed Zones

**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 BUSINESS DISTRICT.** A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this chapter, is unlawful.

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

**63.03 RESIDENCE OR SCHOOL DISTRICT.** A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this chapter, is unlawful.

*(Code of Iowa, Sec. 321.285 [2])*

**63.04 SUBURBAN DISTRICT.** A speed in excess of forty-five (45) miles per hour in any suburban district, unless specifically designated otherwise in this chapter, is unlawful.

*(Code of Iowa, Sec. 321.285 [4])*

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

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

**63.06 MINIMUM SPEED.** No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of

traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

*(Code of Iowa, Sec. 321.294)*

**63.07 EMERGENCY VEHICLES.** The speed limitations set forth in this chapter do not apply to authorized emergency vehicles when responding to emergency calls and the drivers thereof sound audible signal by bell, siren or whistle. This provision does not relieve such driver from the duty to drive with due regard for the safety of others.

*(Code of Iowa, Sec. 321.231)*

**63.08 SPECIAL SPEED RESTRICTIONS.** In accordance with requirements of the Iowa State Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth 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.

*(Code of Iowa, Sec. 321.290)*

**63.09 SPECIAL 15 MPH SPEED ZONES.** A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. Lakeshore Drive, in its entirety.
2. Sunset Drive, in its entirety.

*(Ord. 373 - July 03 Supp)*

**63.10 SPECIAL 20 MPH SPEED ZONES.** A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. Madison Street, from Fifth Street to Ninth Street.

**63.11 SPECIAL 25 MPH SPEED ZONES.** A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. City Route No. 71, in its entirety.
2. East Shore Drive, from the outlet of Black Hawk Lake south to Rolf Avenue.

*(Ord. 396 - Aug. 05 Supp.)*

**63.12 SPECIAL 35 MPH SPEED ZONES.** A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. East Shore Drive, from Quality Drive to the corporate limits.  
*(Ord. 396 – Aug. 05 Supp.)*

**63.13 SPECIAL 45 MPH SPEED ZONES.** A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. Quincy Avenue, from Highway 71 south to North State Road.
2. Quality Drive, from Highway 71 south to East Shore Drive.  
*(Ord. 417 – Nov. 11 Supp.)*

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## CHAPTER 64

### TURNING REGULATIONS

#### 64.01 Authority to Mark

#### 64.02 U-turns

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

*(Code of Iowa, Sec. 321.311)*

**64.02 U-TURNS.** It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district and at intersections where there are automatic traffic signals.

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

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## CHAPTER 65

### STOP OR YIELD REQUIRED

65.01 Through Streets - Stop  
65.02 Special Stops Required  
65.03 Special Yield Required  
65.04 School Stops

65.05 Stop Before Crossing Sidewalk  
65.06 Stop When Traffic Is Obstructed  
65.07 Yield to Pedestrians in Crosswalks

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

*(Code of Iowa, Sec. 321.345)*

1. Madison Street from Third Street to Ninth Street;
2. Third Street from Madison Street to Crescent Park Drive;
3. Lake Street from Third Street to Highways 71 and 175;
4. High Street from Harrison Street to Third Street;
5. Highways 71 and 175 from west City limits to east City limits;
6. High Street from Fifth Street to north City limits;
7. North State Road from County Road M-54 to County Road.

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

*(Code of Iowa, Sec. 321.345)*

1. Tile Plant Road. Vehicles traveling south on Lake Street shall stop at Tile Plant Road;
2. Sixth Street. Vehicles traveling southeast on Seventh Street shall stop at Sixth Street;
3. Fifth Street. Vehicles traveling north on McClure Street shall stop at Fifth Street;
4. Fifth Street. Vehicles traveling north on Blossom Street shall stop at Fifth Street;
5. Blossom Street. Vehicles traveling on First Street shall stop at Blossom Street;
6. Fifth Street. Vehicles traveling south on Vine Street shall stop at Fifth Street;

7. Seventh Street. Vehicles traveling north on Jackson Street shall stop at Seventh Street;
8. Crescent Park Drive. Vehicles traveling west on Lakewood Cut-off Road shall stop at Crescent Park Drive;
9. County Road. Vehicles traveling east on Lakewood Cut-off Road shall stop at County Road;
10. Lakewood Cut-off Road. Vehicles traveling north on Denison Beach Road shall stop at Lakewood Cut-off Road;
11. Highways 71 and 175. Vehicles traveling east on Third Street shall stop at Highways 71 and 175;
12. Fifth Street. Vehicles traveling north on Vine Street shall stop at Fifth Street;
13. Fifth Street. Vehicles traveling north on Main Street shall stop at Fifth Street;
14. Jackson Street. Vehicles traveling east on Seventh Street shall stop at Jackson Street;
15. South State Road. Vehicles traveling west on Tile Plant Road shall stop at South State Road;
16. Seventh Street. Vehicles traveling south on Ash Avenue shall stop at Seventh Street;  
(*Ord. 325 - Mar. 98 Supp.*)
17. Madison Street. Vehicles traveling on Madison Street shall stop at First Street;  
(*Ord. 395 - Aug. 05 Supp.*)
18. Harrison Street. Vehicles traveling east on Harrison Street shall stop at High Street;  
(*Ord. 352 - Oct. 01 Supp.*)
19. Lake Street. Vehicles traveling east on First Street shall stop at Lake Street;
20. First Street. Vehicles traveling on Main Street shall stop at First Street;
21. First Street. Vehicles traveling on Vine Street shall stop at First Street.  
(*Subsections 19-21 - Ord. 357 - Jul. 02 Supp.*)
22. East Shore Drive. Vehicles traveling west on East Shore Drive shall stop at Quality Drive.
23. East Shore Drive. Vehicles traveling west on East Shore Drive shall stop at Rolf Avenue.

24. Sunset Drive. Vehicles traveling east on the north outlet of Sunset Drive shall stop at East Shore Drive.

25. Sunset Drive. Vehicles traveling east on the south outlet of Sunset Drive shall stop at East Shore Drive.

*(Subsections 22-25 – Ord. 372 – July 03 Supp.)*

26. Madison Street. Vehicles traveling on Madison Street shall stop at Third Street.

*(Ord. 395 – Aug. 05 Supp.)*

27. Third Street. Vehicles traveling on Third Street shall stop at Madison Street.

*(Ord. 395 – Aug. 05 Supp.)*

28. Fourth Street. Vehicles traveling on Fourth Street shall stop at Main Street.

*(Ord. 423 – Nov. 11 Supp.)*

29. Boulders Drive. Vehicles traveling south on Boulders Drive shall stop at East Shore Drive.

*(Ord. 426 – Nov. 11 Supp.)*

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

*(Code of Iowa, Sec. 321.345)*

1. Third Street. Vehicles traveling north on Crescent Park Drive shall yield at Third Street;

2. First Street. Vehicles traveling on Vine Street shall yield at First Street;

3. First Street. Vehicles traveling on Main Street shall yield at First Street;

4. Fifth Street. Vehicles traveling south on Hanson Street shall yield at Fifth Street;

5. Blossom Street. Vehicles traveling west on Harrison Street shall yield at Blossom Street;

6. Blossom Street. Vehicles traveling on Fourth Street shall yield at Blossom Street;

7. Lake Street. Vehicles traveling east on First Street shall yield at Lake Street;

8. Lake Street. Vehicles traveling east on Harrison Street shall yield at Lake Street;

9. Fifth Street. Vehicles traveling south on West Street shall yield at Fifth Street;

10. Jackson Street. Vehicles traveling west on Eighth Street shall yield at Jackson Street;

11. Second Street. Vehicles traveling on Second Street shall yield at Main Street.  
*(Ord. 391 – Aug. 05 Supp.)*

**65.04 SCHOOL STOPS.** At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

*(Code of Iowa, Sec. 321.249)*

1. Intersection of Fifth Street and Madison Street;
2. Intersection of Seventh Street and Jackson Street;
3. Intersection of Eighth Street and Jackson Street.

**65.05 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)*

**65.06 STOP WHEN TRAFFIC IS OBSTRUCTED.** Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

**65.07 YIELD TO PEDESTRIANS IN CROSSWALKS.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to 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)*

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## CHAPTER 66

### LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo  
66.02 Permits for Excess Size and Weight  
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges  
66.05 Truck Route

**66.01 TEMPORARY EMBARGO.** If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs.

*(Code of Iowa, Sec. 321.471 & 472)*

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

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

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

*(Code of Iowa, Sec. 321.473 & 475)*

— NONE —

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

*(Code of Iowa, Sec. 321.473)*

**66.05 TRUCK ROUTE.** Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

*(Code of Iowa, Sec. 321.473)*

- A. Madison Street from Highway 71 & 175 to Third Street.
- B. Third Street from Madison Street to Lake Street.
- C. Fifth Street from Blackhawk Lifecare to Lake Street.
- D. Lake Street from Lake View Concrete to Highway 71 & 175.
- E. Vine Street from Third Street to Fifth Street.
- F. First Street from High Street to Lake Street.
- G. Blossom Street from South State Road to First Street.
- H. All of High Street, North State Road, South State Road, and Highway 71 & 175.

2. Deliveries Off Truck Route. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal or making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

*(Code of Iowa, Sec. 321.473)*

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

*(Code of Iowa, Sec. 321.473)*

## CHAPTER 67

### PEDESTRIANS

67.01 Walking in Street  
67.02 Hitchhiking

67.03 Pedestrian Crossing  
67.04 Use Sidewalks

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

*(Code of Iowa, Sec. 321.326)*

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

*(Code of Iowa, Sec. 321.331)*

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

*(Code of Iowa, Sec. 321.328)*

**67.04 USE SIDEWALKS.** Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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## CHAPTER 68

### ONE-WAY TRAFFIC

**68.01 ONE-WAY TRAFFIC REQUIRED.** Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

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

1. Vine Street is southbound from Third Street to Second Street;
2. Eighth Street is westbound from Madison Street to Jackson Street;
3. Lakeshore Drive is southbound from Lake Street to Lake Street.

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## CHAPTER 69

### PARKING REGULATIONS

69.01 Park Adjacent to Curb  
69.02 Park Adjacent to Curb - One-way Street  
69.03 Diagonal Parking  
69.04 Angle Parking - Manner  
69.05 Parking for Certain Purposes Illegal  
69.06 Parking Prohibited

69.07 Handicapped Parking  
69.08 No Parking Zones  
69.09 All Night Parking Prohibited  
69.10 Truck Parking Limited  
69.11 Snow Removal

**69.01 PARK ADJACENT TO CURB.** No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

*(Code of Iowa, Sec. 321.361)*

**69.02 PARK ADJACENT TO CURB - ONE-WAY STREET.** No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

*(Code of Iowa, Sec. 321.361)*

**69.03 DIAGONAL PARKING.** Angle or diagonal parking is permitted only in the following locations:

*(Code of Iowa, Sec. 321.361)*

1. Main Street, on the west side, from Fifth Street to just south of Third Street;
2. Main Street, on the east side, from Third Street to Fifth Street;
3. Third Street, on the north side, from Main Street to the old railroad right-of-way;
4. Third Street, on the south side, from High Street to the old railroad right-of-way;
5. Fourth Street, on the north side, from High Street to Vine Street;
6. Fourth Street, on the south side, from High Street to Vine Street;
7. Fifth Street, on the north side, from High Street to Vine Street;

8. Fifth Street, on the south side, from High Street to Vine Street;
9. Ninth Street, on the south side, from Jackson Street to Madison Street;
10. Jackson Street, on the west side, from Seventh Street to Ninth Street;
11. Jackson Street, on the east side, from Seventh Street to Ninth Street;
12. Second Street, on the south side, from Madison Street to one-half block west;
13. Second Street, on the south side, from Main Street to Vine Street;
14. Vine Street, on the west side, from Third Street to one-half block south;
15. Vine Street on the west side, from Third Street to one-half block north.

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

*(Code of Iowa, Sec. 321.361)*

**69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL.** No person shall park a vehicle upon public property for more than seventy-two (72) hours or for any of the following principal purposes:

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

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

**69.06 PARKING PROHIBITED.** No one shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with

the directions of a peace officer or traffic control device, in any of the following places:

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

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

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

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

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

14. Theatres, Hotels and Auditoriums. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

*(Code of Iowa, Sec. 321.360)*

15. Alleys. No person shall park a vehicle of any type in an alley within the corporate limits of the City except for the purpose of delivering goods and the loading and unloading of same and for the use of the alleys for emergency vehicles.

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

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

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

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

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

**69.07 HANDICAPPED PARKING.** The following regulations shall apply to the establishment and use of handicapped parking spaces:

1. Nonresidential Off-street Facilities. Nonresidential off-street parking facilities shall set aside handicapped parking spaces in accordance with the following:

A. Municipal off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as handicapped parking spaces, rounded to the nearest whole number of handicapped parking spaces. However, such parking facilities having ten (10) or more parking spaces shall set aside at least one handicapped parking space.

*(Code of Iowa, Sec. 321L.5[3a])*

B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing handicapped parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for handicapped parking spaces in a facility exceeds sixty percent (60%) during normal business hours, the entity shall provide additional handicapped parking spaces as needed.

*(Code of Iowa, Sec. 321L.5[3b])*

C. An entity providing off-street nonresidential parking as a lessor shall provide a handicapped parking space to an individual requesting to lease a parking space, if that individual possesses a handicapped parking permit issued in accordance with Section 321L.2 of the Code of Iowa.

*(Ord. 319 - Oct. 96 Supp)*

*(Code of Iowa, Sec. 321L.5[3c])*

D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide handicapped parking spaces as stipulated below:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF HANDICAPPED PARKING SPACES
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	*
1001 and over	**
*Two percent (2%) of total	
**Twenty (20) spaces plus one for each 100 over 1000	

*(Code of Iowa, Sec. 321L.5[3d])*

2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one handicapped parking space as needed for each individual dwelling unit in which a handicapped person resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate handicapped parking spaces in the visitors parking area in accordance with the table contained in subsection (1)(D) of this section.

*(IAC, 661-18.7[321L])*

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2%) of the total parking spaces within each business district shall be designated as handicapped parking spaces.

*(Code of Iowa, Sec. 321L.5[4a])*

4. Other Spaces. Any other person may set aside handicapped parking spaces on the person's property provided each parking space is clearly and prominently designated as a handicapped parking space. No person shall establish any on-street handicapped parking spaces without first obtaining Council approval.

*(Code of Iowa, Sec. 321L.5[3e])*



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

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

- A. Use by a motor vehicle not displaying a handicapped parking permit;
- B. Use by a motor vehicle displaying a handicapped parking permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation (other than a person transporting the handicapped or elderly and the persons being so transported in a vehicle displaying a removable windshield placard in accordance with Section 321L.2[1b] of the Code of Iowa);
- C. Use by a motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

*(Ord. 319 - Oct. 96 Supp.)*

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

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

- 1. Third Street on the north side from Crescent Park Drive to West Jct. of Third & Lake — 24 hours;
- 2. Lakeshore Drive on the west side from Lake Street to Lake Street — 24 hours;
- 3. Madison Street on both sides from Third Street to Fifth Street — 24 hours; *(Ord. 393 – Aug. 05 Supp.)*
- 4. Beach Area Drive on the east side — 24 hours;
- 5. Beach Parking Area between the hours of 10:30 p.m. to 4:00 a.m.;
- 6. Lake Street on the east side from Third Street to Fourth Street — 24 hours;
- 7. Fifth Street on the north side from Jackson Street to Ash Street — 24 hours;
- 8. Fifth Street on the south side from Jackson Street to Ash Street — 24 hours;

9. Broughton Boulevard on the east side from First Street to Third Street — 24 hours;
10. Denison Beach Drive on the north side from County Road to Lakewood Cut-off — 24 hours;
11. *(Repealed by Ord. 405 - Aug. 06 Supp.)*
12. North shoulder of U.S. 71-IA 175 in front of Tjaden's Café and Oil;
13. Madison Street on both sides from Fifth Street to US 71-IA 175 – 24 hours. *(Ord. 353 – Jul 02 Supp.)*
14. Ash Avenue on both sides from Seventh Street north to the Wall Lake View Auburn Community School parking lot. *(# 13-14, Ord. 323, Mar. 98 Supp.)*
15. Fifth Street on the south side from the entrance to Sunset Plaza Apartments west until Fifth Street terminates. *(Ord. 341 – Jul. 00 Supp.)*

**69.09 ALL NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than thirty (30) minutes between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. of any Saturday.

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

1. Main Street on both sides from Third Street to Fifth Street;
2. Fifth Street on both sides from High Street to Vine Street;
3. Fourth Street on both sides from High Street to Vine Street;
4. Third Street on both sides from High Street to Vine Street.

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

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the following designated streets. 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.

- A. Main Street on both sides from Third Street to Fifth Street, 24 hours a day, seven days a week;
  - B. Fourth Street on both sides from High Street to Vine Street, 24 hours a day, seven days a week;
  - C. Fifth Street on both sides from High Street to Vine Street, 24 hours a day, seven days a week.
- 2. Livestock. No person shall park a livestock trailer within the corporate limits of the City for a period in excess of eight (8) hours.
  - 3. Dollying Down. No person shall dolly down any semi, truck or livestock trailer on any public street or alley in the City.
  - 4. Public Parking Lot. No person shall park a motor truck, semi-trailer or other motor vehicle with trailer attached in the City public parking lot located at the north end of Hanson Street behind the City garage unless the trailer is first cleaned so as not to emit any offensive odors and in any event for no longer a period of time than 48 hours.

Special permits for parking contrary to the provisions of this Section may be issued by the Mayor, Clerk or Police Chief upon a showing by the applicant that due to unusual circumstances permitting such parking is in the public interest. Such permits shall only be issued when public health, safety and welfare will not be seriously affected by the issuance of the special permit.

**69.11 SNOW REMOVAL.** From October 1st to May 1st no person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area when snow is falling or predicted; or during snow removal operations until the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. The provisions of this section are in effect twenty-four hours a day. The registered owner of a vehicle that is found in violation of this Sub-chapter shall be issued a civil citation for municipal infraction and the person receiving the citation shall be liable for civil penalties as follows:

1<sup>st</sup> Offense: \$20.00

2<sup>nd</sup> Offense: \$100.00

3<sup>rd</sup> Offense: \$200.00

4<sup>th</sup> Offense: Vehicle will be impounded pursuant to

City Ordinance Sub-chapter 70.06

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## CHAPTER 70

### TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation  
70.02 Scheduled Violations  
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended  
70.05 Presumption in Reference to Illegal Parking  
70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

*(Code of Iowa, Sec. 805.6, 321.485)*

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

*(Code of Iowa, Sec. 805.6, 805.8)*

**70.03 PARKING VIOLATIONS: ALTERNATE.** Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty dollars (\$20.00) for all violations except improper use of a persons with disabilities parking (handicapped parking) permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking (handicapped parking) permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

*(Ord. 376 – Sep. 03 Supp.)*

*(Code of Iowa, Sec. 321.236 [1a] & 321L.4[2])*

**70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED.** When a vehicle is parked in violation of any provision of the Traffic Code, and the

driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

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

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

**70.06 IMPOUNDING VEHICLES.** A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

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

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

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

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

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

4. Parked Over Seventy-two (72) Hour Period. When any vehicle is left parked for a continuous period of seventy-two (72) hours or more. If the owner is found the owner shall be given an opportunity to remove the vehicle.

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

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

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

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## CHAPTER 75

### ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose	75.07 Exempt Vehicles
75.02 Definitions	75.08 Penalties
75.03 General Regulations	75.09 Negligence
75.04 Operation of Snowmobiles	75.10 Accident Reports
75.05 Operation of All-Terrain or Off-Road Utility on Roadways	75.11 Charges for Services
75.06 Unlawful Operations	75.12 Payment of Fees

**75.01 PURPOSE.** The purpose of this chapter is to regulate the operation of all-terrain vehicles, off-road utility vehicles, and snowmobiles within the City.

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

1. "All-terrain vehicle" as defined by Iowa Code Section 321I.1(1)(a), means a motorized vehicle, with not less than three and not more than six nonhighway tires, that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
2. "Off-road utility vehicle" as defined in Iowa Code Section 321I.1(17) means a motorized flotation-tire vehicle, with not less than four and not more than eight low-pressure tires, that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
3. "Roadway" as defined by Iowa Code Section 321I.1, means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
4. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis or tread, and is designed for travel on snow or ice.

**75.03 GENERAL REGULATIONS.** No person shall operate an All-Terrain or an Off-Road Utility Vehicle or an off-road motorcycle within the City in violation of Chapter. No person shall operate a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation

of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

*(Code of Iowa, Ch. 321G & Ch. 321I)*

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

1. Unplowed Streets. Snowmobiles shall not be operated on the following designated street, alleys, or specified areas except when the streets have not been plowed during the snow season and are impassable.

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

- A. In Speaker Park and Camp Crescent;
  - B. On Main Street from the north side of Fifth Street to the south side of Third Street;
  - D. On Vine Street from the north side of Fifth Street to the south side of Third Street;
  - E. On Fifth Street from the east side of High Street to the east side of Vine Street;
  - F. On Fourth Street from the east side of High Street to the east side of Vine Street;
  - G. On Third Street from the east side of High Street to the east side of Vine Street.
2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

- A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

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

- B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;



(3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

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

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

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

*(Code of Iowa, Sec. 321G.9[4]7)*

4. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

5. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

**75.05 OPERATION OF ALL-TERRAIN VEHICLES OR OFF-ROAD UTILITY ON ROADWAYS.** If an All-Terrain or Off-Road Utility Vehicle is properly registered pursuant to Iowa Code Section 321I.3, the same may be operated on any roadway under the jurisdiction of the City of Lake View, such operation further limited to the hours from official sunrise to official sunset of the same day, as established by the National Weather Service.

**75.06 UNLAWFUL OPERATIONS.**

1. A person shall not drive or operate an All-Terrain or Off-Road Utility Vehicle:

A. At a rate of speed in excess of the posted speed limit, nor greater than reasonable or proper under all existing circumstances.

B. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

C. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

D. Without a lighted headlight and taillight.

E. On any State roads located within the City.

- F. In any tree nursery or planting in a manner which damages or destroys growing stock.
  - G. On any public land, ice, or snow, in violation of official signs prohibiting such operation in the interest of safety for persons, property, or the environment. The Police Chief may post an official sign in an emergency for the protection of persons, property, or the environment.
  - H. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.
- 2. A person shall not operate or ride in an All-Terrain or an Off-Road Utility Vehicle with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a non-ambulatory person may carry an uncased and unloaded firearm while operating or riding in an All-Terrain or Off-Road Utility Vehicle.
  - 3. A person shall not operate an All-Terrain or Off-Road Utility Vehicle:
    - A. With more persons on the vehicle than it was designed to carry.
    - B. Paragraph "A" does not apply to a person who operates an All-Terrain or Off-Road Utility Vehicle as part of a farm operation as defined in Iowa Code Section 352.2.
  - 4. A person shall not operate an All-Terrain or Off-Road Utility Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to Off Road Utility Vehicle operation.
  - 5. A person shall not operate a vehicle other than an All-Terrain or Utility Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to such other use.
  - 6. A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator is 18 years of age or older and has a valid Iowa Driver's License; unless the vehicle is duly registered; and unless

the operator has proof of insurance complying with that required of the operator of a motor vehicle pursuant to applicable Iowa Statutes, Rules, and Regulations, including but not limited to Iowa Code Sections 321.20B and 321A.21.

**75.07 EXEMPT VEHICLES.** Registration shall not be required for all-terrain vehicles used exclusively to conduct agricultural operations pursuant to Iowa Code section 321I.9(3).

**75.05 PENALTIES.** Violation of this Ordinance shall constitute a simple misdemeanor punishable by a minimum fine of \$65.00, a maximum fine of \$625.00, plus applicable surcharges and court costs, and/or up to thirty (30) days in jail.

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

*(Code of Iowa, Sec. 321G.18 & 321119)*

**75.10 ACCIDENT REPORTS.** Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

*(Code of Iowa, Sec. 321G.10 & 321111)*

**75.11 CHARGES FOR SERVICES.** When the Police Department or Fire Department responds to a call involving snowmobile(s) or any other vehicle crossing open water on Black Hawk Lake, or when a Police or Fire officer observes said action and responds, a response fee may be assessed. The Police Chief may assess a fee for all services rendered by the Police and/or Fire Department under this section against the operator/owner of the snowmobile. The minimum charge/fee shall be \$500.00.

**75.12 PAYMENT OF FEES.** All fees assessed under Section 75.08 shall be due and payable upon presentation of a statement for said fees and charges to the snowmobile operator, and shall be paid to the City Clerk. Actions for collection of fees and charges shall be brought in the name of the City in the same manner as other actions at law. The City shall be entitled to receive

interest on the assessed costs and reasonable attorney fees and costs for enforcing and collecting the same.

*(Ch. 75 – Ord. 469 – Jan. 17 Supp.)*

## CHAPTER 76

### BICYCLE REGULATIONS

76.01 Scope of Regulations  
76.02 Traffic Code Applies  
76.03 Double Riding Restricted  
76.04 Two Abreast Limit  
76.05 Bicycle Paths  
76.06 Speed  
76.07 Emerging from Alley or Driveway

76.08 Carrying Articles  
76.09 Riding on Sidewalks  
76.10 Towing  
76.11 Improper Riding  
76.12 Parking  
76.13 Equipment Requirements  
76.14 Special Penalty

**76.01 SCOPE OF REGULATIONS.** These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.  
*(Code of Iowa, Sec. 321.236 [10])*

**76.02 TRAFFIC CODE APPLIES.** Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.  
*(Code of Iowa, Sec. 321.234)*

**76.03 DOUBLE RIDING RESTRICTED.** A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.  
*(Code of Iowa, Sec. 321.234 [3 and 4])*

**76.04 TWO ABREAST LIMIT.** Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.  
*(Code of Iowa, Sec. 321.236 [10])*

**76.05 BICYCLE PATHS.** Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.  
*(Code of Iowa, Sec. 321.236 [10])*

**76.06 SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

**76.07 EMERGING FROM ALLEY OR DRIVEWAY.** The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

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

**76.08 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

**76.09 RIDING ON SIDEWALKS.** The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

**76.10 TOWING.** It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City.

**76.11 IMPROPER RIDING.** No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

**76.12 PARKING.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the

bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

**76.13 EQUIPMENT REQUIREMENTS.** Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

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

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

**76.14 SPECIAL PENALTY.** Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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## CHAPTER 77

### GOLF CARTS

77.01 Purpose

77.02 Valid Motor Vehicle License Required

77.03 Designated Streets

77.04 Equipment Required

77.05 Speed Limit

77.06 Time of Operation

77.07 Registration Required

77.08 Motor Vehicle Laws Apply

**77.01 PURPOSE.** The purpose of this chapter is to allow the operation of golf carts on certain streets within the City, providing the following restrictions are met and observed:

**77.02 VALID MOTOR VEHICLE LICENSE REQUIRED.** No golf cart shall be operated on the streets of the City unless the operator thereof has within his or her possession at all times while operating said golf cart a valid motor vehicle license.

**77.03 DESIGNATED STREETS.** No golf cart shall be operated upon any street within the City that is a primary road extension; however, crossing such primary road extension is permitted. Golf cart travel on the following streets is forbidden:

1. Highways 71 and 175 within the City;
2. All state roads located within the City.

**77.04 EQUIPMENT REQUIRED.** All golf carts operated upon City streets shall be equipped with all of the following:

1. Slow-moving vehicle sign;
2. Bicycle safety flag;
3. Adequate brakes; and
4. Adequate brake lights.

Golf carts shall not be equipped with a motor or engine which exceeds ten (10) horsepower.

**77.05 SPEED LIMIT.** No golf cart shall be operated at a speed in excess of twenty (20) mph on any street within the City.

**77.06 TIME OF OPERATION.** Golf carts may be operated on the streets only from sunrise to sunset, with those hours being determined by information provided by meteorologists working within the area.

**77.07 REGISTRATION REQUIRED.** Registration is required with the Police Department of the City. The Police Department shall conduct an inspection of the golf cart prior to registration to verify that the golf cart complies with the provisions of this chapter. An annual registration fee of two dollars (\$2.00) is required.

**77.08 MOTOR VEHICLE LAWS APPLY.** The motor vehicle laws provided for in the Code of Iowa apply to the operation of golf carts to the extent practically applicable.

## CHAPTER 80

### ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

*(Code of Iowa, Sec. 321.89[1])*

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

**80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

**80.03 NOTICE BY MAIL.** The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the

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

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

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

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

**80.05 FEES FOR IMPOUNDMENT.** The owner, lienholder or claimant shall pay five dollars (\$5.00) if claimed within five (5) days of impounding, plus two and one-half dollars (\$2.50) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

**80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.** The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

**80.08 PROCEEDS FROM SALES.** Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

**80.09 DUTIES OF DEMOLISHER.** Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

*(Code of Iowa, Sec. 321.90[3a])*

*(Ch. 80 - Ord. 398 - Aug. 05 Supp)*

[The next page is 381]

## 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 Connection to Public Water System and Use of Private Wells	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Stop
90.05 Permit	90.15 Interior Stop
90.06 Compliance with Plumbing Code	90.16 Inspection and Approval
90.07 Plumber Required	90.17 Completion by the City
90.08 Excavations	90.18 Shutting off Water Supply
90.09 Tapping Mains	90.19 Operation of Curb Stop and Hydrants
90.10 Tapping Fee	90.20 Moving Water Facilities
	90.21 Contamination of Wells

**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 Director of the City or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

**90.02 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 CONNECTION TO PUBLIC WATER SYSTEM AND USE OF PRIVATE WELLS.**

1. Definitions. For use in this section the following terms are defined:
  - A. “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.
  - B. “Human habitation or occupancy” means use of water in the plumbing system of a residence or business used or occupied by humans.
  - C. “Private well” means any groundwater well, except a monitoring well used as a 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. Connections to the Public Water System. Except as otherwise provided herein, all residences and business establishments within the City using water for human habitation or occupancy shall connect to the 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.
3. Exceptions. A residence or business establishment within the City using water for human habitation or occupancy may obtain its water from a private well as follows:
  - A. Existing Wells. A well in existence on the effective date of the ordinance codified by this section (October 2011) may continue to obtain water from a private well as follows:
    - (1) For irrigation of grass and landscape planting upon the property for so long as desired;
    - (2) For human habitation or occupancy until the date established at Section 90.03(3)(B)(4) herein.
  - B. New Wells. A well may be drilled only upon property that 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 at Section 90.03(3)(B)(4) herein.
    - (1) Permit. No person shall install or maintain a private well after the date of enactment of the ordinance codified by this section (October 2011), or own or use a private well within the City after such date.
    - (2) Contaminated Area. Notwithstanding anything to the contrary which permits a private well to remain in existence



within the City, no new private well be drilled nor shall repairs to an existing private well be made after the date of enactment of the ordinance codified by this section (October 2011), if the well is located within a contaminated area.

(3) Variance. The City Council, upon recommendation of the Superintendent, may consider a variance or exception to this section on application to the City.

(4) Termination of Use of Existing Wells. The use of any private well not permitted to continue under this section shall cease and the well shall be plugged in accordance with rules of the Iowa Department of Natural Resources on July 1, 2012, or 90 days after the date the public water system is extended to within 200 feet of the affected property, whichever is later.

*(Ord. 442 – Nov. 11 Supp.)*

**90.04 ABANDONED CONNECTIONS.** When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock 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 Clerk. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of 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 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*.

*(Ord. 442 – Nov. 11 Supp.)*

**90.07 PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall

make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

**90.08 EXCAVATIONS.** All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

**90.09 TAPPING MAINS.** All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premise may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one size smaller than the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

**90.10 TAPPING FEES.** There shall be a tapping fee for each new water tap, or the relocation of an existing water tap at the request of the customer, as follows:

1. Fee. The connection fee shall be:
  - A. Three hundred dollars (\$300.00) for water taps of one inch (1") or smaller; and
  - B. Three hundred dollars or a fee equal to the time of City employees and materials used for water taps larger than one inch (1"), whichever is greater.
2. Multiple Connections.
  - A. For multi-family developments where the property is owned by one person and units are rented to tenants (i.e. mobile or manufactured

home park or apartment complex) the owner shall pay one connection fee as stated in this section plus twenty-five percent (25%) of that fee for each additional unit.

B. For multi-unit developments where joint ownership is exercised whether by easement, license, dedication, share ownership or declaration to horizontal property regime, each individual owner will pay the full assessment as stated above.

*(Ord. 354 – Jul 02 Supp.)*

**90.11 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be type K copper tubing or approved P.V.C. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing. Tracer wires shall be installed with all P.V.C. service lines. It is the property owner's responsibility to locate the water service line on their property.

*(Ord. 456 – Jan. 13 Supp.)*

**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 stop 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 STOP.** There shall be installed within the public right-of-way a main shut-off valve on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

**90.15 INTERIOR STOP.** There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

**90.16 INSPECTION AND APPROVAL.** All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to

enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

**90.17 COMPLETION BY THE CITY.** Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

**90.18 SHUTTING OFF WATER SUPPLY.** The Superintendent may shut off the supply of water to any customer because of violation of any 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 STOP AND HYDRANTS.** It is unlawful for any person except the Superintendent to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

**90.20 MOVING WATER FACILITIES.** A customer may request the relocation of water utility facilities. The Superintendent may authorize the movement of the water utility facility if moving the facility does not result in damage to the water system infrastructure. The customer shall be billed for all of the costs of moving an existing facility on a time and material basis. If, at the discretion of the Superintendent, the water utility facility needs to be replaced with a new facility, one-half of the costs of the new materials shall be borne by the customer. An advance deposit equal to the total estimated cost shall be required where the estimate exceeds one hundred dollars (\$100.00)

*(Ord. 369 – July 03 Supp.)*

**90.21 CONTAMINATION OF WELLS.** To prevent contamination of public wells, no potential source of contamination shall be constructed nearer to any such public well than the distance for each such possible source of contamination as set out herein:

1. Well house floor drains – 5 ft.
2. Water treatment plant wastes – 50 ft.
3. Sanitary and industrial discharges – 200 ft.
4. Floor drains from pump house to surface – none within 5 ft.
  - A. 5-10 ft. Water main materials enclosed in concrete permitted.

- B. 10-20 ft. must be water main material.
  - C. 25-75 ft. must be water-tight sewer pipe.
5. Floor drains to sewers, water plant wastes, storm or sanitary sewer drains.
- A. None permitted within 25 ft.
  - B. If closer than 75 ft., must be water main material.
  - C. If between 75 and 200 ft. must be watertight sewer pipe.
6. Force Mains.
- A. None permitted within 75 ft.
  - B. If within 200 ft., must be water main materials.
7. Land application of solid waste – 200 ft.
8. Irrigation of waste water – 200 ft.
9. Concrete vaults and septic tanks – 200 ft.
10. Mechanical wastewater treatment plants – 200 ft.
11. Cesspools and earth pit privies – 200 ft.
12. Soil absorption fields – 200 ft.
13. Lagoons – 200 ft.
14. Chemical application to ground surface – 200 ft.; above ground storage – 200 ft; on or under ground storage – 200 ft.
15. Animal Pasurage – 50 ft.
16. Animal Enclosure – 200 ft.
17. Animal Wastes.
- A. Land application of solids – 200 ft.
  - B. Land application of liquid or slurry – 200 ft.
  - C. Storage tank – 200 ft.
  - D. Solids stockpile – 200 ft.
  - E. Storage basin or lagoon – 200 ft.
18. Earthen silage storage trench or pit – 200 ft.
19. Basements, pits, sumps – 10 ft.
20. Flowing streams or other surface water bodies – 50 ft.
21. Cisterns – 100 ft.

- 22. Cemeteries – 200 ft.
- 23. Private wells – 200 ft.
- 24. Solid waste disposal sites – 200 ft.

*(Ord. 470 – Jan. 17 Supp.)*

## CHAPTER 91

### WATER METERS

91.01 Purpose  
91.02 Water Use Metered  
91.03 Fire Sprinkler Systems- Exception  
91.04 Location of Meters  
91.05 Meter Setting

91.06 Meter Repairs and Maintenance Responsibility  
91.07 Right of Entry  
91.08 Outside Watering Meters  
91.09 Required Movement of Water Meters  
91.10 Tampering with Meters

**91.01 PURPOSE.** The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters purchased from the City and installed by the customer. All meter installations shall be inspected and approved by the Superintendent. All meters installed after the effective date of the ordinance codified by this section (October 24, 2012) shall be radio-read water meters compatible with the City's radio-read system.

*(Ord. 455 – Jan. 13 Supp.)*

**91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

**91.04 LOCATION OF METERS.** All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing. It is the goal of the City to have all water meters located inside the principle residence/building site where water is provided by the City.

Existing meters located within a water pit shall be moved and relocated inside the residence/building. All costs to move an existing water meter from a pit to a residence/building shall be the customer's sole responsibility.

In the event a customer elects not to move their water meter from a pit to the inside of a structure or an exception exists as stated under 91.05, the customer shall be bound by the following as set out under 91.06.

*(Ord. 467 – Jan. 17 Supp.)*

**91.05 METER SETTING.** The customer shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter.

If the Superintendent determines that it is not possible to place the water meter in the residence/building site, the meter may be placed in another location. Said location shall be allowed only upon final approval by the Superintendent.

If the water meter remains in a water pit, the pit shall be of a design acceptable to the Superintendent. All water meters that remain inside a water pit shall be accessible from ground level.

*(Ord. 467 – Jan. 17 Supp.)*

**91.06 METER REPAIRS AND MAINTENANCE RESPONSIBILITY.** Whenever a water meter 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, then the customer shall be liable for the cost of repairs.

If a customer is unable to locate or refuses to locate their water meter inside the residence/building, all costs shall be paid for by the customer. All costs include, but is not limited to, the cost of the meter, maintenance and replacement labor costs, and additional hardware/fixed machinery.

*(Ord. 467 – Jan. 17 Supp.)*

**91.07 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.

**91.08 OUTSIDE WATERING METERS.** Meters may be installed to measure water which is used exclusively for outside use. Outside watering meters shall be purchased from the City and installed by the customer. All meter installations shall be inspected and approved by the Superintendent.

*(Ord. 402 – Mar. 06 Supp.)*

**91.09 REQUIRED MOVEMENT OF WATER METERS.** Whenever feasible, water meters shall be placed within the customer's main building. Whenever a broken or malfunctioning meter is replaced, or if the current installation in a pit is deemed by the Superintendent inaccessible or unsafe, the water meter must be placed in the building. All costs of moving an existing water meter are borne by the customer.

*(Ord. 433 – Nov. 11 Supp.)*



**91.10 TAMPERING WITH METERS.** Any user or any person on behalf of a user who causes water provided by the City to be by-passed around and not through the City's meters and/or who alters the user's water line, fixture, appliance or water meter so as to prevent the proper determination of water used shall be in violation of this chapter. *(Ord. 442 –Nov. 11 Supp.)*

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## 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 Temporary Vacancy  
92.10 Repealed by Ordinance No. 326  
92.11 Meter Seals; Penalty

**92.01 SERVICE CHARGES.** Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** Water service shall be furnished at the following monthly rates within the City:

1. \$11.20 monthly minimum service charge. Service charge includes the first 1,000 gallons of water metered; and
2. \$4.48 for every 1,000 gallons metered in excess of the first 1,000 gallons; and

*(Subsections 1 and 2 - Ord. 463 – Feb. 14 Supp.)*

3. \$5.00 for every 1,000 gallons of bulk water sales through the water dispenser at the Fire Station; and
4. Future Rates. *(Repealed by Ord. 462 – Feb. 14 Supp.)*

Sales tax is to be added to all water bills so as to be in compliance with the provisions of the Code of Iowa.

*(Code of Iowa, Sec. 384.84)*

*(Ord. 418 – Nov. 11 Supp.)*

**92.03 RATES OUTSIDE THE CITY.** Water service shall be provided to those customers outside the corporate limits who were receiving water service from the City as of June 30, 2002, at a rate equal to one hundred fifty percent (150%) of the rates provided in Section 92.02. No new connections to the City water system will be permitted for property located outside of the corporate limits.

*(Ord. 365 – Nov. 02 Supp.)*

*(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 on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 20th day of each month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A flat fee of \$5.00 per account shall be added to each delinquent bill. This penalty shall be forgiven once per account during each calendar year. *(Ord. 347 – Feb. 01 Supp.)*

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

*(Code of Iowa, Sec. 384.84)*

1. Notice. The City shall notify each delinquent customer that service will be 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 and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the disconnection.
2. Notice to Owner/Landlord. If the customer is a tenant, and if the owner/landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner/landlord.
3. Hearing. If a hearing is requested by noon of the day preceding the disconnection, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified.
4. Fees. A reconnection fee of twenty dollars (\$20.00) shall be charged to a customer whose service has been disconnected due to delinquency.

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

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.** The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service. *(Ord. 443 – Nov. 11 Supp.)*

*(Code of Iowa, Sec. 384.84)*

**92.08 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer. *(Ord. 385 – May 04 Supp.)*

*(Code of Iowa, Sec. 384.84)*

**92.09 TEMPORARY VACANCY.** A property owner may request water service to be temporarily disconnected and shut off at the curb stop when the property is expected to be vacant for an extended period of time. During a period when service is temporarily disconnected as provided herein the customer will be billed the monthly minimum service charge. The City will not drain pipes or pull meters for temporary vacancies. There shall be a fee collected for shutting the water off at the curb stop in accordance with the following:

1. Within City. A fee of twenty dollars (\$20.00) will be charged for shutting the water off at the curb stop.
2. Outside City. A fee of thirty dollars (\$30.00) will be charged for shutting the water off at the curb stop.

3. After Hours. If disconnection is requested other than during regular working hours, the City will charge one and one-half times the regular rate for the service.

*(Ord. 326 - Jun. 98 Supp.)*

**92.10 CONNECTION FEE.** *(Repealed by Ordinance No. 326 - Jun. 98 Supp.)*

**92.11 METER SEALS; PENALTY.** The Superintendent shall cause a seal to be installed on each water meter. The seal may be broken or removed only by the Superintendent or designee. Customers found to have an unauthorized broken seal are subject to a scheduled fine of \$300.00. *(Ord. 460 - Feb. 14 Supp.)*

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## 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 Owner's Liability Limited  
95.09 Use of Easements  
95.10 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

*(IAC, 567-69.3[1])*

3. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

*(IAC, 567-69.3[1])*

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more



than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. “Superintendent” means the Public Works Director of the City or any authorized deputy, agent, or representative.

23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

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

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

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

*(Code of Iowa, Sec. 716.1)*

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

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

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

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

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

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

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewers chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within three hundred (300) 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, 567-69.3[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 Sewers 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 OWNER'S LIABILITY LIMITED.** While performing the necessary work on private property, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to City employees and the City shall indemnify the owner or occupant against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

**95.09 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.

**95.10 SPECIAL PENALTIES.** The following special penalty provisions shall apply to violations of these Sanitary Sewers chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

*(Ord. 342 – Dec. 00 Supp.)*

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

## CHAPTER 96

### BUILDING SEWERS AND CONNECTIONS

96.01 Permit  
96.02 Plumber Required  
96.03 Excavations  
96.04 Connection Requirements  
96.05 Interceptors Required

96.06 Sewer Tap  
96.07 Inspection Required  
96.08 Property Owner's Responsibility  
96.09 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 Clerk. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PLUMBER REQUIRED.** All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewers chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

**96.03 EXCAVATIONS.** All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has

been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

**96.04 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 connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (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 twelve (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 (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line and at a uniform grade of not less than the following:
  - A. Four (4) inch lines: one-fourth ( $\frac{1}{4}$ ) inch per foot.
  - B. Six (6) inch lines: one-eighth ( $\frac{1}{8}$ ) inch per foot.
  - C. Minimum velocity: 2.50 feet per second with the sewer half full.

- D. Deviations: any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with properly curved pipe and 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 Division 4 of the State Building 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. Cast and ductile iron water pipe - A.S.T.M. A-377.
  - D. P.V.C. - DWV - A.S.T.M. D-2665.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be commensurate with the type of pipe used, subject to the approval of the Superintendent.
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 (6) 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.

14. Locating. Tracer wires shall be installed with all building sewers. It is the property owner's responsibility to locate the building sewer on their property. *(Ord. 456 – Jan. 13 Supp.)*

**96.05 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 provided by the Iowa Public Health Bulletin and Division 4 of the State Building 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.

**96.06 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 "Y" saddle 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 and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless

special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

**96.07 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 under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.08 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.

**96.09 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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



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## CHAPTER 97

### USE OF PUBLIC SEWERS

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

97.06 Special Facilities  
97.07 Control Manholes  
97.08 Testing of Wastes  
97.09 Moving Sewer Facilities

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ( $\frac{1}{2}$ ) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

- B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

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

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

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

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

**97.09 MOVING SEWER FACILITIES.** A customer may request the relocation of sanitary sewer facilities. The Superintendent may authorize the movement of the sewer facility if moving the facility does not result in damage to the sanitary sewer system infrastructure. The customer shall be billed for all of the costs of moving an existing facility on a time and material basis. If, at the discretion of the Superintendent, the sewer utility facility needs to be replaced with a new facility, one-half of the costs of the new materials shall be

borne by the customer. An advance deposit equal to the total estimated cost shall be required where the estimate exceeds one hundred dollars (\$100.00)

*(Ord. 370 – July 03 Supp.)*

## CHAPTER 98

### PRIVATE 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 privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

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

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

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

*(IAC, 567-69.3[3])*

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

**98.05 DISCHARGE RESTRICTIONS.** It is unlawful to discharge any wastewater from a private on-site wastewater treatment and disposal system to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground unless such system has been approved by the County Board of Health.

*(IAC, 567-69.3[3])*

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



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

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

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

## CHAPTER 99

### SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required  
99.02 Rates for Service  
99.03 Special Rates  
99.04 Private Water Systems

99.05 Payment of Bills  
99.06 Lien for Nonpayment  
99.07 Special Agreements Permitted  
99.08 Connection Fee  
99.09 Service Outside the City

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service fees as hereinafter provided. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

**99.02 RATES FOR SERVICE.** Sewer service shall be furnished at the following monthly rates within the City:

1. \$17.25 monthly minimum service charge. Service charge includes the first 1,000 gallons of water metered; and
2. \$6.90 for every 1,000 gallons metered in excess of the first 1,000 gallons; and

*(Subsections 1 and 2 - Ord. 490 – Feb 18)*

3. Future Rates. *(Repealed by Ord. 462 – Feb. 14 Supp.)*

Sales tax is to be added to all commercial customers' sewer bills so as to be in compliance with the provisions of the Code of Iowa.

*(Ord. 419 - Nov. 11 Supp.)*

*(Code of Iowa, Sec. 384.84)*

**99.03 SPECIAL RATES.** Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either

the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

*(Code of Iowa, Sec. 384.84)*

**99.04 PRIVATE WATER SYSTEMS.** Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

*(Code of Iowa, Sec. 384.84)*

**99.05 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

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

*(Code of Iowa, Sec. 384.84)*

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

**99.08 CONNECTION FEE.** There shall be a connection fee paid before the issuance of a sewer connection permit in accordance with the following:

1. Fee. The connection fee shall be based on the number of lift stations needed to provide sanitary sewer service to the property as follows:

Zero or One (1) lift station	\$ 250.00
Two (2) lift stations	\$ 500.00
Three (3) lift stations	\$ 750.00
Four (4) lift stations	\$1,000.00
Five (5) lift stations	\$1,250.00
Six (6) lift stations	\$1,500.00

2. Multiple Connections.

A. For multi-family developments where the property is owned by one person and units are rented to tenants (i.e. mobile or manufactured home park or apartment complex) the owner shall pay one connection fee as stated in this section plus twenty-five percent (25%) of that fee for each additional unit.

- B. For multi-unit developments where joint ownership is exercised whether by easement, license, dedication, share ownership or declaration to horizontal property regime, each individual owner will pay the full assessment as stated above.
- 3. Applicability. Said connection fee shall apply only to:
  - A. Any lands annexed into the City, except lands included in the annexation area approved by the City Development Board on October 25, 2001.
  - B. Lands which were not platted as lots of record for residential, commercial or industrial use prior to July 1, 2003.

*(Ord. 355 – Jul 02 Supp.)*

**99.09 SERVICE OUTSIDE THE CITY.** No new connections to the City sanitary sewer system will be permitted for property located outside of the corporate limits.

*(Ord. 366 – Nov. 02 Supp.)*

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## CHAPTER 100

### SEWER EXTENSIONS

100.01 Purpose  
100.02 Definition  
100.03 Construction by City

100.04 Construction by Owner  
100.05 Others Required to Connect  
100.06 Building Sewers Installed

**100.01 PURPOSE.** The purpose of this chapter is to provide a means and method for the extension of sewers to serve property not served by an existing sewer line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

**100.02 DEFINITION.** For the purpose of this chapter, “builder” means the owner of land who causes a sanitary sewer to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

**100.03 CONSTRUCTION BY CITY.** An owner of land abutting or adjoining a property or a public street where no sanitary sewer has been installed may make application to the Council for the installation of a sanitary sewer in said street for the purpose of serving the property in accordance with the following:

1. **Application and Deposit.** A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distance boundary of the owner’s lot abuts the said public street, shall be submitted to the Council.
2. **Construction.** Upon receipt of the deposit, the City shall construct the sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. **Additional Costs.** In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. **Lien Authorized.** In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request

for installation of the sanitary sewer, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Connecting Property. The expense of connecting the property of the builder to the sanitary sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

**100.04 CONSTRUCTION BY OWNER.** In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct said sewer at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a sewer, in accordance with the following:

1. City Supervision. The installation of such a sewer by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. Surety Bond. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing sewer to the point where the farthest boundary of the applicant's land abuts the public street, and the bond shall guarantee the installation of the sewer in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to the public street incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the sanitary sewer.

3. Ownership of Sewer Line. After the sewer has been installed, it shall become the property of the City.

**100.05 OTHERS REQUIRED TO CONNECT.** Following the installation of a sanitary sewer under the provisions of this chapter, owners of land abutting or adjoining a public street in which such sewer has been installed, being persons other than the builder, shall be obliged to connect any sewage generating facilities into said sewer, as required by Chapter 95.

**100.06 BUILDING SEWERS INSTALLED.** Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the City or by a private party, shall include a stub to each abutting or adjoining lot line of the street or right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the City with an accurate map showing the location of each of such stubs within thirty (30) days of the completion of the installation.



[The next page is 435]



## CHAPTER 105

### SOLID WASTE CONTROL

105.01 Purpose	105.10 Toxic and Hazardous Waste
105.02 Definitions	105.11 Items Not Collected
105.03 Sanitary Disposal Required	105.12 Waste Storage Containers
105.04 Health and Fire Hazard	105.13 Prohibited Practices
105.05 Open Burning Restricted	105.14 Withholding of Service
105.06 Burning Prohibited	105.15 Sanitary Disposal Project Designated
105.07 Separation of Yard Waste Required	105.16 Brush Pile Site Designated
105.08 Littering Prohibited	105.17 Brush Pile Use Regulated
105.09 Open Dumping Prohibited	105.18 Penalty

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

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

1. “Appliances” means machines common to household use, and includes refrigerators, stoves, microwave ovens, dishwashers, clothes washers and dryers, water heaters, furnaces, air conditioners, dehumidifiers, television sets, stereo systems, video cassette recorders, radios, lawn mowers, vacuum cleaners or any other devices used in the home that contain either a gasoline engine or an electric motor.
2. “Collector” means any person authorized to gather solid waste from public and private places.
3. “Director” means the director of the State Department of Natural Resources or any designee.  
*(Code of Iowa, Sec. 455B.101[2b])*
4. “Discard” means to place, cause to be placed, throw, deposit or drop.  
*(Code of Iowa, Sec. 455B.361[2])*
5. “Disposable solid waste container” means disposable plastic bags, approved by the City, to be used for the disposal of residential solid waste.
6. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities

which are used, or are intended to be used, for living, sleeping, cooking and eating.

7. “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)*

8. “Hazardous waste” means all pathological and explosive wastes, pesticides, toxic radioactive materials and those wastes included by definition in the Code of Iowa Chapter 455B.411 (4a), the regulations of the Department of Natural Resources, and any Federal law or regulation. Also included in this definition are any containers of any kind which have been used to store or transport an item defined as hazardous waste.

9. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, brush, weeds, leaves, grass, shrubbery, garden waste, stumps and yard trimmings.

*(IAC, 567-20.2[455B])*

10. “Litter” means discarding, depositing or dumping any garbage, rubbish, trash, refuse, waste materials or debris in the City in any manner or location other than as designated herein for collection.

*(Code of Iowa, Sec. 455B.361[1])*

11. “Open burning” means any burning or combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

12. “Open dumping” means the discarding, depositing or dumping of solid waste on the surface of the ground or into a body or stream of water.

13. “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.

14. “Premises” means any real property, including but not limited to buildings and improvements whether intended for residential, commercial, industrial or other use.

15. “Recyclable” means any solid waste that is capable of and designated for recycling by the Sac Area Recycling Center.

16. “Recycling” means any process by which solid waste is collected, separated, processed and returned to use in the form of raw materials or products.

17. “Refuse” means all solid waste not required to be recycled, and includes garbage.

18. “Residential premises” means a single-family dwelling, any multiple-family dwelling, all garden type apartments and all row type housing units, regardless of the total number of such apartments or units in a given housing development.

19. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

*(Code of Iowa, Sec. 455B.301)*

20. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush, branches, weeds, shrubbery, trees and tree trimmings.

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 of this Code of Ordinances or by initiating proper action in district court.

*(Code of Iowa, Ch. 657)*

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause or permit open burning of combustible materials except that the following is permitted:

*(IAC, 567-23.2[455B] and 567-100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3b])*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises during the period of spring and fall cleanup as designated by the Mayor. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ( $\frac{1}{4}$ ) mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.

*(IAC, 567-23.2[3d])*

5. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that such fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3g])*

6. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3h])*

7. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3i])*

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

*(IAC, 567-23.2[2])*

9. Cooking. Outdoor charcoal or wood broiler grills, fireplaces and chimneys burning untreated wood or charcoal, used only for the

preparation of food. It is unlawful for these installations to be utilized for the disposal of any other objects, material or matter by fire.

*(Ord. 444 – Nov. 11 Supp.)*

10. Recreational Fires. A fire of untreated wood which is completely contained within a fire ring or fire pit no greater than three feet in diameter and attended at all times.

*(Ord. 444 – Nov. 11 Supp.)*

**105.06 BURNING PROHIBITED.** It is unlawful to burn any garbage, trash, rubbish or any other new or used material, including but not limited to paper, cardboard, plastic, paper or plastic products, clothing, toys or household goods or motor vehicles or any attached or unattached parts thereof.

**105.07 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, burned on the premises in accordance with Section 105.05(4) of this chapter or deposited by the owner or occupant at the City's designated disposal site.

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

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

**105.09 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

*(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)*

**105.10 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director.

**105.11 ITEMS NOT COLLECTED.** The City will not be responsible for the collection of any of the following solid waste from any dwelling: hazardous waste, bulky rubbish, appliances, tires, yard waste, construction waste, commercial solid waste, any substance or material determined to be hazardous or otherwise unacceptable for collection.

**105.12 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. All residential refuse shall be stored for collection in an approved disposable solid waste container. Only residential refuse which is nonrecyclable as defined by this chapter and the regulations of the City shall be stored in this container and picked up by the collector. The disposable solid waste containers shall be sold at such prices and locations as determined by the Council and shall be available for purchase at such locations as are deemed to be convenient.

- B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City or collector.

2. Storage of Containers. Residential solid waste containers and recyclable containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. All residential solid waste and recyclable containers shall be placed for collection at the curb or property line adjacent to the City street. Containers shall be placed at the curb or property line prior to seven-thirty o'clock (7:30) a.m. on the morning of the regularly scheduled collection day. All containers shall



be removed from the curb or property line on the same day that collection occurs. The collector is authorized to refuse collection of solid waste or recyclables that are not placed at the curb or property line in compliance with this chapter. Failure by the collector to collect solid waste or recyclables not in compliance with the provisions of this chapter shall not relieve the resident, owner, operator or occupant of liability for violations of this chapter.

**105.13 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.14 WITHHOLDING OF SERVICE.** In the event that any resident, owner, operator or occupant is in violation of the provisions of this chapter, the City may elect, in addition to any other remedies, to withhold solid waste management services from that resident, owner, operator, occupant or dwelling unit. Election to withhold services shall not prevent the City from taking additional action which is allowable under this chapter or other law. The City's election to withhold services shall not relieve the responsible party from liability for payment of the monthly collection fee.

**105.15 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Sac County Landfill Association are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

**105.16 BRUSH PILE SITE DESIGNATED.** The City of Lake View's official site for disposal of landscape waste and concrete products shall be the City property as designated by signage and located west of South High Street and south of the lands owned by the Iowa Department of Natural Resources.

*(Ord. 371 – Jul. 03 Supp.)*

**105.17 BRUSH PILE USE REGULATED.**

1. Items Accepted. The only items accepted at the brush pile site are trees, brush, leaves, grass clipping, garden waste, and concrete.
2. Generated in City Limits. The City's brush pile site only accepts items which are grown or generated within the corporate limits of the City of Lake View.
3. Contractor Permit. Persons or firms who are compensated for the job of removing trees, removing concrete, or disposing of yard waste shall obtain a permit authorizing the person or firm to use the City brush pile site. Permits will be valid until June 30 of the following year and shall cost twenty-five dollars (\$25.00) per year.
4. Access Limited. The gate to the brush pile site is to remain locked except when a person is in the site depositing waste or during designated hours when the site is open to the public.
5. Burning the Brush Pile Site. The brush pile site will be burned as needed. Only City staff may light the dump on fire.

*(Ord. 454 – Jan. 13 Supp.)*

**105.18 PENALTY.** Any person who violates Section 105.17(1, 2, or 3) will be subject to a civil penalty of one thousand dollars (\$1,000.00) per occurrence. Any person who violates Section 105.17(4) will be subject to a civil penalty of two hundred fifty dollars (\$250.00) per occurrence. Any person who violates Section 105.17(5) will be subject to a civil penalty of five hundred dollars (\$500.00) per occurrence.

*(Ord. 454 – Jan. 13 Supp.)*

## CHAPTER 106

### COLLECTION OF SOLID WASTE

106.01 Collection Service  
106.02 Collector's Permit  
106.03 Right of Entry  
106.04 Collection Vehicles

106.05 Loading and Hauling  
106.06 Frequency of Collection  
106.07 Collection Fees  
106.08 Lien for Nonpayment

**106.01 COLLECTION SERVICE.** The City shall provide for the collection of solid waste 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. No person shall engage in the business of collection and disposal of solid waste from residential premises within the corporate limits of the City without first being awarded a contract duly authorized by the City.

**106.02 COLLECTOR'S PERMIT.** No person shall, for hire, collect and/or haul for the purpose of disposal any solid waste from any residential premises within the corporate limits of the City without first obtaining a permit therefor in accordance with the following:

1. Application. Application for a permit shall be made to the Clerk and shall contain the following information:
  - A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.
  - B. Equipment. The make, model and capacity of each piece of collecting and hauling equipment proposed to be used within the corporate limits of the City.
  - C. Experience. Prior experience and references.
  - D. Proposed Charges. An itemized list of the proposed charges to be made for residential solid waste collection service and such other information as shall be reasonably required by the Clerk.
2. Insurance. No permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury - \$100,000 per person.  
- \$300,000 per occurrence.

Property Damage - \$ 50,000.

3. Certificate of Insurance. The permit holder shall keep a current certificate of insurance on file with the Clerk. Any permit issued under this chapter shall be void, without notice to the permit holder, upon the expiration of the certificate of insurance on file with the Clerk. The permit may be validated by the filing of a new certificate of insurance.

4. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.

5. Grading or Excavation Excepted. No permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

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

**106.04 COLLECTION VEHICLES.** The collector shall furnish a sufficient number of vehicles and equipment, together with the labor force necessary to collect and remove all solid waste and recyclables from all residential premises within the City. Said vehicles and equipment are to be of a type suitable for the collection of solid waste and recyclables and are to be in full compliance at all times with all legal requirements applicable to vehicles and equipment being so used. All vehicles and equipment shall be leakproof, durable, kept clean, disinfected as often as is needed, and maintained in good repair.

**106.05 LOADING AND HAULING.** 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.

**106.06 FREQUENCY OF COLLECTION.** All solid waste shall be collected and removed from each City site and from all residential premises as follows:

1. Once each week from September 1 through May 31.
2. Twice each week from June 1 through August 31.

Recyclables shall be collected once each week throughout the year. City sites include: City Hall, City Garage, City Parks, Camp Crescent, Fire Station, Library and all churches. Apartments and trailer courts located within the corporate limits of the City are considered residential premises.

**106.07 COLLECTION FEES.**

1. Base Fee. The base fee for solid waste and recycling collection and disposal service, used or available, shall be ten dollars and seventy-five cents (\$10.75) per month for each unit of a single-family or multiple-family dwelling.
2. Solid Waste Container Fee. The cost of the special clear plastic bags with *City of Lake View* imprinted on them, purchased from the City, is \$2.00 a piece, sold in packages of ten (10).

*(Ord. 481 – Apr. 17 Supp.)*

**106.08 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

[The next page is 455]

## CHAPTER 110

### NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.08 Relocation of Grantee's Facilities
110.02 Term	110.09 Confidential Information
110.03 Franchise Fees or Taxes	110.10 Force Majeure
110.04 Governing Rules and Regulations	110.11 Hold Harmless
110.05 Provision for Inadequate Energy Supplies	110.12 Successors and Assigns
110.06 Construction and Maintenance of Grantee's Facilities	110.13 No Third Party Beneficiaries
110.07 Extension of Grantee's Facilities	110.14 Non-Waiver
	110.15 Effective Date and Acceptance

**110.01 FRANCHISE GRANTED.** The City of Lake View, Iowa (hereinafter referred to as “Grantor”), hereby grants a non-exclusive franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware limited liability corporation (hereinafter called “Grantee”), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over above or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public easements as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, poles, communication devices, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

**110.02 TERM.** The rights and privileges granted by this owner shall remain in effect for a period of twenty-five (25) years from the effective date thereof.<sup>†</sup> Grantor shall have the right to review and to terminate the franchise granted by this ordinance as set forth herein. The right to review and terminate the franchise may be exercised by Grantor on the following dates: At the end of the tenth (10<sup>th</sup>) year from the date of enactment of the ordinance or at the end of the seventeenth (17<sup>th</sup>) year from the date of enactment of the ordinance. If

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<sup>†</sup> **EDITOR'S NOTE:** Ordinance No. 475, adopting a natural gas franchise for the City, was passed and adopted on May 16, 2016.

Grantor elects to terminate the franchise, Grantor shall notify Grantee in writing at least one hundred and eighty (180) days before the proposed effective date of termination (i.e. end of 10<sup>th</sup> or 17<sup>th</sup> year). If Grantor does not notify Grantee of its desire to terminate the franchise, then the term will continue thereafter until the next period to terminate the franchise.

**110.03 FRANCHISE FEES OR TAXES.** Grantor may, during the term of this franchise, in its discretion, in compliance with and as authorized by state law, after public hearing and upon a majority vote of a majority of the members of the Grantor's City Council then present, pass an ordinance imposing a franchise fee on Grantee's customers located within Grantor's corporate limits; provided, however, that the franchise fee shall not be effective, and Grantee shall not be obligated to collect and pay same, unless and until: (1) it is satisfactory to Grantee with respect to its compatibility with Grantee's billing system; (2) the form of assessment and collection of the franchise fee is based on either: (a) a percentage of Grantee's gross receipts of regulated sales or transportation revenues collected from Grantee's customers within Grantor's corporate limits; (b) a volumetric fee based upon Grantee's delivery of energy within Grantor's corporate limits; or (c) a flat fee collected on a nondiscriminatory basis from each of Grantee's customers within Grantor's corporate limits; and (3) Grantor has imposed a franchise fee on all other parties supplying energy within Grantor's corporate limits, calculated in the same manner as the franchise fee imposed on Grantee's customers.

**110.04 GOVERNING RULES AND REGULATIONS.** The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by state or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.



**110.05 PROVISION FOR INADEQUATE ENERGY SUPPLIES.** If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

**110.06 CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES.** Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation. Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance and will fix its excavations within a commercially reasonable time period, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Within a reasonable time thereafter, Grantee shall request and Grantor shall issue any permits or authorizations required by Grantor for the actions conducted by Grantee during the emergency situation. Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee as soon as practical in advance of the actual commencement of the work, considering seasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

**110.07 EXTENSION OF GRANTEE'S FACILITIES.** Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria as approved by the Iowa Utilities Board make

reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

**110.08 RELOCATION OF GRANTEE'S FACILITIES.** If Grantor or other governmental entities located within the corporate limits of Grantor elect to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, unless otherwise reimbursed by federal, state or local legislative act or governmental agency, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public right-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference with Grantor's facilities. If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference with such project, then Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. If alternative public right-of-way space is available, Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of-way until it (a) if applicable, receives the reasonable cost of relocating the same and (b) obtains a reasonable public right-of-way, dedicated utility easement, or private easement alternative location for such facilities.

**110.09 CONFIDENTIAL INFORMATION.** Grantor acknowledges that certain information it might request from Grantee pursuant to this Ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under state or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

**110.10 FORCE MAJEURE.** It shall not be a breach or default under this Ordinance if either party fails to perform its obligations hereunder due to force

majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

**110.11 HOLD HARMLESS.** Grantee, during the term of this Ordinance, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or equipment; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

**110.12 SUCCESSORS AND ASSIGNS.** All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

**110.13 NO THIRD PARTY BENEFICIARIES.** This Ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this Ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

**110.14 NON-WAIVER.** Any waiver of any obligation or default under this Ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

**110.15 EFFECTIVE DATE AND ACCEPTANCE.** This Ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable

laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the City Council, and filing with the Clerk of the City of Lake View, Iowa. The Clerk of the City of Lake View, Iowa shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

*(Ch. 110 – Ord. 475 – Jan. 17 Supp.)*

## CHAPTER 111

### TELEPHONE FRANCHISE

111.01 Franchise Granted  
111.02 Term of Franchise  
111.03 Police Power

111.04 Indemnification  
111.05 Use of Public Street

**111.01 FRANCHISE GRANTED.** There is hereby granted to Contel of Iowa, Inc., an Iowa corporation having its principal place of business in the City of Newton, Iowa, its successors and assigns (herein referred to as "Grantee") the right, privilege and franchise to locate, erect, construct, relocate, replace, extend, enlarge, repair, operate and maintain a general telephone system and exchange in the City and to enter upon, use and occupy the streets, roads, avenues, highways, alleys, boulevards, public grounds and other public places in the City in the supplying and furnishing to persons in the City and beyond and outside of the City communication by telephone, with the right, privilege and franchise to locate, erect, construct, relocate, replace, extend, enlarge, repair, operate and maintain all necessary and convenient poles, conduits, manholes, apparatus, service pipes, fixtures, wires, cables, cross-arms, appliances, connections and appurtenances, and to make house and building connections upon, on, along, in, under, across, through and over said streets, roads, avenues, highways, alleys, boulevards, public grounds and other public places in the City, as are requisite for the complete equipment and furnishing and supplying of communication by telephone and in receiving and transmitting intelligence by electricity for all purposes, in any manner and by any method or device.

**111.02 TERM OF FRANCHISE.** The right, privilege and franchise herein granted shall extend for a period of fifteen (15) years from and after the date the ordinance codified herein became effective.

**111.03 POLICE POWER.** The rights, privileges and franchise herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

**111.04 INDEMNIFICATION.** The Grantee shall at all times protect and save harmless the City from all damages or loss from or arising out of or by reason of the construction and maintenance or operation of said telephone system and exchange, except as may be the result of negligence on the part of the employees of the City.

**111.05 USE OF PUBLIC STREETS.** The Grantee, in constructing, maintaining and operating its telephone system and exchange, and in its use of the streets, roads, avenues, highways, alleys, boulevards and other public places in the City, shall perform its necessary and convenient work with due care and with reasonable dispatch; and shall not unnecessarily obstruct travel; and shall protect the place while its work is in progress by guards, barriers or signals; and shall backfill all openings made by it in such a manner as to prevent settling or depressions in the surface; and shall replace the surface, pavement and sidewalk of any excavations made by it with the same or like material, so as to restore the same, as nearly as is practical, to its condition prior to such excavation; and shall not unnecessarily interfere with any water mains, gas mains, sewers or drains which are now or may hereafter be laid, except as the prior consent of the Council is first obtained; and shall repair any defects caused by it.

**EDITOR'S NOTE**

Ordinance No. 275 adopting a telephone franchise for the City was passed and adopted on February 4, 1991. Voters approved the franchise at an election held on April 9, 1991.

## CHAPTER 112

### CABLE TELEVISION FRANCHISE

112.01 Definitions	112.10 Rates and Charges
112.02 Grant of Authority	112.11 City Rights in Franchise
112.03 Compliance with Laws and Ordinances	112.12 Maps, Plats and Reports
112.04 Liability and Indemnification	112.13 Cancellation of Franchise
112.05 Operation and Maintenance of the System	112.14 Duration of Franchise
112.06 Safety Requirements	112.15 Insurance
112.07 Conditions of Street Occupancy	112.16 Indemnity
112.08 Erection, Removal and Use of Poles	112.17 Transfer of Franchise
112.09 Removal of Facilities	112.18 Other Conditions
	112.19 Franchise Fee

**112.01 DEFINITIONS.** The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Cable Television System” or “Cable System” means a system utilizing coaxial cables and certain electronic and other components which deliver to subscribing members of the public various communications services.
2. “Grantee” means COMSERV, LTD., or any successors or assigns as may be in accordance with the provisions of the franchise.

**112.02 GRANT OF AUTHORITY.** There is hereby granted to the Grantee for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a CATV system. Upon request for service, the Grantee shall extend its lines and service within the County beyond the initial service area to any location in which there are at least 45 homes per mile of cable required to extend CATV service from the initial service area. Grantee shall, whenever it shall receive a request for service from at least eight (8) potential subscribers within one thousand (1,000) feet from its existing system, extend such system to said subscribers at no cost to the subscriber for system extension other than usual connect fees for all subscribers. The 1,000 feet shall be measured in extension length of Grantee’s cable required for service located within the public way or easements and shall not include length of the necessary service drop to the subscriber’s home or premises.

**112.03 COMPLIANCE WITH LAWS AND ORDINANCES.** The Grantee shall, at all times during the life of the franchise, be subject to all lawful exercise of the police power of the City and to such reasonable regulations as the City shall hereafter provide.

**112.04 LIABILITY AND INDEMNIFICATION.** The Grantee, by its acceptance of the franchise, agrees that it will pay all damages and penalties which the City may legally be required to pay as a result of granting the franchise, including the cost of defending any legal action against the City arising out of the installation, operation or maintenance of the CATV system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter.

**112.05 OPERATION AND MAINTENANCE OF THE SYSTEM.** The Grantee shall install such equipment and have the necessary equipment and personnel to maintain its facilities such as to assure efficient service, and it shall have the necessary equipment and personnel to make repairs promptly and interrupt service only for good cause and for the shortest time possible. Grantee shall apply for a cross-ownership waiver in accordance with FCC Rule 214, and gain approval of FCC prior to construction.

**112.06 SAFETY REQUIREMENTS.**

1. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.
2. The Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the National Electric Safety Code as promulgated by the National Bureau of Standards and the National Electrical Code of the National Board of Fire Underwriters and in such manner that they will not interfere with any installation of the City or of a public utility serving the City.
3. All structures and all lines, equipment, and connections in, over, under and upon the streets, sidewalks, alleys and public ways or places of the City, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition and in good order and repair.



**112.07 CONDITIONS OF STREET OCCUPANCY.**

1. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys and public ways or places.
2. In the case of a disturbance of any street, sidewalk, alley, public way or paved area, the Grantee shall, at its own expense and in a manner approved by the City, replace and restore such street, sidewalk, alley, public way or paved area in as good a condition as before the work involving such disturbance was done.
3. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the City so as to prevent the branches of the trees from coming in contact with the wires and cables of the Grantee.
4. If at any time during the period of the franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley or other public way, the Grantee, upon reasonable notice by the City, shall relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
5. In all sections of the City where the cables, wire or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.

**112.08 ERECTION, REMOVAL AND USE OF POLES.** No poles or other wire holding structures shall be erected by the Grantee without prior approval of the City with regard to location, height, type and any other pertinent aspect. No location of any pole or wire-holding structure of the Grantee shall be a vested interest and such poles or structures shall be moved or modified by the Grantee at its own expense whenever the Council determines that the public convenience would be enhanced thereby.

**112.09 REMOVAL OF FACILITIES.** The Grantee upon termination by any subscriber of the Grantee's service shall promptly remove all of its facilities and equipment from the premises of a subscriber upon said subscriber's written request.

**112.10 RATES AND CHARGES.** In consideration for services rendered to subscribers, the Grantee shall have the right to charge and collect from subscribers fair and reasonable compensation calculated to offset all necessary costs for provision of the services and including a fair rate of return on investment devoted thereto, under efficient and economical management.

**112.11 CITY RIGHTS IN FRANCHISE.**

1. The right is hereby reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.
2. The Council shall have the right to inspect and the Grantee shall make available, its books, records, maps, plans and other like materials of the Grantee pertaining to the operation of the CATV System at any time during normal business hours, provided that thirty (30) days' notice shall have been given to Grantee as to what records are to be produced for such inspection.
3. The Council shall have the right during the term of the franchise to install and maintain free of charge upon the poles of said CATV System any wire or pole fixtures necessary for a police alarm system, on the condition that such wire and pole fixtures do not interfere with the operations of the Grantee.
4. The Council shall have the right to hold a public or private hearing on any matter pertaining to this chapter, and the Grantee shall make available its representatives or agents for such hearing.

**112.12 MAPS, PLATS AND REPORTS.** On or before March 1 of each year, the Grantee shall file with the Council true and accurate maps or plats of the CATV trunk and feeder lines within the City limits as of December 31 of the preceding year.

**112.13 CANCELLATION OF FRANCHISE.** The Council reserves the right to terminate and cancel the franchise and all rights and privileges of the Grantee hereunder in the event the Grantee becomes insolvent, unable or unwilling to pay its debts or is adjudged as bankrupt. Termination and cancellation, other than as a result of bankruptcy, shall be by ordinance only adopted after ninety (90) days' notice to the Grantee. The termination or cancellation of the franchise shall give the City no vested interest in the

business or property of the Grantee, and the Grantee shall have a reasonable

period to dismantle its equipment in the event of such cancellation or termination and to restore all streets, alleys, sidewalks and public places to their original condition.

**112.14 DURATION OF FRANCHISE.** The franchise and the rights, privileges and authority herein granted shall be nonexclusive for a term of twenty-five (25) years. The original term of the franchise shall be automatically extended for successive additional five-year periods unless one of the parties hereto gives twelve (12) months' written notice to the other party of its intention not to extend the franchise on these terms and conditions. Notwithstanding such notice, the City and Grantee agree to negotiate in good faith changes proposed by either party which would apply to a renewal or extension of the franchise so as to insure continuity of service to the public.

**112.15 INSURANCE.** Grantee shall maintain at its expense the following insurance policies:

1. Comprehensive General Liability. A general comprehensive public liability insurance policy indemnifying, defending, and saving harmless the City, its officers, boards, Council members, agents or employees from any and all claims by any person whatsoever for injury to or death of a person or persons occasioned or alleged to have been occasioned by the operation of the Grantee under the franchise, in the amount of at least \$100,000.00 per personal injury or death of any one person and \$300,000.00 for personal injury or death of any two or more persons in any one occurrence.
2. Property Damage. Property damage insurance indemnifying, defending and saving harmless the City, its officers, boards, Council members, agents or employees from or against all claims by any person whatsoever for property damage occasioned or alleged to have been occasioned by the operation of the Grantee under the franchise, in the amount of at least \$100,000.00 for property damage of any one person and \$300,000.00 for property damage of two or more persons in any one occurrence.

All of the foregoing insurance contracts shall be in force in a form satisfactory to the City, shall be issued and maintained by companies authorized to do business in the State of Iowa and acceptable to the City and shall be kept in full force and effect by the Grantee during the term of the franchise, including any required removal of equipment, structures, facilities, apparatus and appurtenances. The contracts shall contain provisions requiring that thirty (30) days' written notice of any cancellation be given to both the City and Grantee.

**112.16 INDEMNITY.** The Grantee shall fully indemnify, defend and save harmless the City, its officers, boards, Council members, agents and employees against any and all claims, suits, actions, liability and judgments for damage to persons or property, including, without limitation, damages arising out of copyright infringement and out of the installation, operation, or maintenance by Grantee of a cable television system, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter. The Grantee shall pay all expenses, including attorneys' fees, personally incurred by the City in defending itself with regard to all such claims, suits, actions, liability and judgments.

**112.17 TRANSFER OF FRANCHISE.** The Grantee shall not assign or transfer the franchise to any other person without prior written consent of the City, which consent shall not be unreasonably withheld.

**112.18 OTHER CONDITIONS.** Notwithstanding the terms of this chapter, the Grantee is not required to operate in violation of any rule or regulation of the Federal Communications Commission or any Federal or State law which may hereafter be adopted.

**112.19 FRANCHISE FEE.** Upon ninety days notice to Grantee, the City may institute a franchise fee of up to five percent (5%) on the gross revenues of the cable television system. "Gross Revenues" are defined in State of Iowa Code §477A.1. The franchise fee shall be administered per State of Iowa Code §477A.7  
(Ord. 416 – Nov. 11 Supp.)

**EDITOR'S NOTE**

Ordinance No. 235 adopting a cable TV franchise for the City was passed and adopted on February 20, 1984. Ordinance No. 394, adopted July 18, 2005, approved the franchise transfer from Comserv, Ltd. to Corn Belt Telephone Company.

## CHAPTER 113

### ELECTRIC UTILITY

113.01 Purpose  
113.02 Policy Direction  
113.03 Superintendent

113.04 Rates  
113.05 Reconnection Charge  
113.06 Meter Seals; Penalty

**113.01 PURPOSE.** The purpose of this chapter is to provide for the operation of the municipally owned electric system.

**113.02 POLICY DIRECTION.** The Mayor and Council shall establish appropriate rules and regulations governing the operation and maintenance of the electric system. An official copy of the rules and regulations is on file in the office of the Clerk. The rules and regulations apply to all users of the municipal electric system.

**113.03 SUPERINTENDENT.** Subject to the approval of the Council, the Mayor shall appoint a superintendent who shall be responsible for execution of policies governing the system as established by the Council.

**113.04 RATES.** The rates for electric service are as follows:

1. Residential Service. Residential electric service is applicable to all domestic uses in single-family dwellings and individually metered apartments within the corporate limits of the City, including use of motors of not more than 5 horsepower individual capacity. Space heating and air conditioning shall be served under this schedule.

A. Service Available. Single-phase, 60 hertz, 120/240 volt, 400 amp max., 3-wire, single meter.

B. Monthly Rate.

Customer Charge (no KWH) \$15.00 plus

Energy Charge: First 1,000 KWH @ 8.00 cents

Over 1,000 KWH @ 6.07 cents

*(Ord. 465 – Feb. 14 Supp.)*

2. Rural Service. Rural electric service is applicable to all residential, farm and farm-related loads located outside the corporate limits of the City. Exceptions covered by other rates include commercial and three-phase.

A. Service Available. Single-phase, 60 hertz, 120/240 volt, 400 amp max., 3-wire, single meter.

B. Monthly Rate:

Customer Charge (no KWH) \$19.00 plus

Energy Charge: First 2,000 KWH @ 9.50 cents  
Over 2,000 KWH @ 5.70 cents

*(Ord. 465 – Feb. 14 Supp.)*

3. Commercial Service. Commercial electric service is applicable to any commercial load within the corporate limits of the City, for all purposes and also applies to commercial loads outside the corporate limits with the exception of residential, farm and farm-related loads.

A. Service Available. Single-phase, 60 hertz, 120/240 volt, 400 amp max., 3-wire, single meter.

B. Monthly Rate:

Customer Charge (no KWH) \$19.00 plus

Energy Charge: First 2,000 KWH @ 9.40 cents  
Over 2,000 KWH @ 5.81 cents

*(Ord. 465 – Feb. 14 Supp.)*

4. Three-Phase Service. Three-phase electric service is applicable to any three-phase load within the Lake View service area, for all purposes, and includes all three-phase users except those qualifying under the Small Seasonal Rate.

*(Ord. 329 - Nov. 98 Supp.)*

A. Service Available. 60 hertz, three-phase, 240/120 V, 208 Y/120 V, or 480 Y/277 V, 4-wire, or standard primary voltage available at point of delivery. Special voltages may be provided at the discretion of the utility. Utility furnishes only one transformer bank and/or one meter.

B. Monthly Rate:

Customer Charge (no KWH) \$30.00 plus

Energy Charge All KWH @ 4.475 cents

Demand Charge All KW @ \$11.25

*(Ord. 465 – Feb. 14 Supp.)*

C. Metered Demand. The metered demand for any month shall be the maximum kilowatt demand established by the customer for any fifteen-minute interval during the month as indicated or recorded by a demand meter.

D. Power Factor Adjustment. If the customer's average monthly power factor falls below 90%, leading or lagging, the utility may adjust the metered demand by the ratio of 90% to the measured average monthly power factor in percent.

Example: Metered Demand = 739 KW  
 Avg. Mo. Power Factor = 73.0%  
 Ratio =  $90/73 = 1.2329$   
 Adjusted Demand =  $(739)(1.2329) = 911 \text{ KW}$

E. Adjusted Demand. The adjusted demand consists of the metered demand adjusted for power factor, if applicable.

F. Billing Demand. The demand to be billed shall be the adjusted demand for the month but not less than 50% of the highest adjusted demand during the preceding 11 months. After two consecutive months of minimum charges with no metered usage, a three-phase customer will be exempt from charges until the next month of metered usage.

G. Primary Metering. The utility will furnish and install primary metering when service is taken by the customer and metered at primary voltage. The customer owns and installs all necessary primary and transformers beyond point of service. A 2% discount will apply to demand and energy charges to allow for losses and investment return. If service is taken at primary voltage (that is, customer owns primary and transformers) and metered at secondary voltage, a 1% discount will apply to demand and energy charges to allow for investment return.

4.1 Small Seasonal Service. Small seasonal service is applicable to any three-phase load within the Lake View service area which meets the following criteria:

A. Does not exceed 25 KW of demand for more than three months of the calendar year.

B. Does not exceed 1,000 kWh of energy for more than three months of the calendar year.

C. Does not exceed 50 KW of demand during the calendar year.  
*(Ord. 404 – Mar. 06 Supp.)*

D. Does not exceed 5,000 kWh of energy at any time during the calendar year.

E. Three-phase customers' accounts will be examined during each January to determine if the customer is eligible for the Small Seasonal rate.

F. The determination of eligibility made each January shall apply for the remainder of the calendar year, or until the customer uses more than 50 KW of demand or 1,000 kWh of energy, at



which time the customer shall be classified under Three-Phase Service.

G. Monthly Rate: The monthly rate shall be the same as set forth in Section 113.04(3), Commercial Service.

*(Ord. 329 - Nov. 98 Supp.)*

5. Church Three-Phase Service. *(Repealed by Ord. 448 – Feb. 12 Supp.)*

6. Security Light Service. Security light service is applicable to all customers for dusk-to-dawn outdoor lighting in close proximity to existing secondary circuits.

A. Conditions of Service. The utility shall furnish, install, operate and maintain the outdoor lighting equipment, electrically connected so that the power for the operation of the light does not pass through the customer's meter on the unmetered rate and does pass through the customer's meter on the metered rate. All equipment shall be located within two (2) feet of an existing 120-volt service. For other locations, the additional costs shall be paid for by the customer. The utility shall maintain the lighting equipment, including lamp replacement, at no additional cost to the customer within 24 hours after the customer notifies the utility of the need for maintenance of the lighting equipment. The lighting equipment shall remain the property of the utility. The customer shall protect the lighting equipment from deliberate damage.

B. Monthly Rate.

Mercury Vapor			High Pressure Sodium		
Size	Metered	Unmetered	Size	Metered	Unmetered
175W	\$2.85	\$5.85	100W	\$ 4.75	\$ 6.50
250W	\$3.15	\$6.95	150W	\$ 5.10	\$ 9.10
400W	\$4.00	\$10.05	250W	\$ 9.20	\$13.85
			400W	\$15.30	\$22.30

*(Ord. 465 – Feb. 14 Supp.)*

7. Public Authority. Public authority service is applicable to all community services including street lighting.

A. Service Available. 60 hertz, single meter, single-phase, 120/240 volt, 400 amp max., 3-wire; three-phase, 240/120 V, 208 Y/140V or 480 Y/277 V, 4-wire.

- B. Customer Charge (no KWH) \$11.00/month
- C. Monthly Rate. All KWH @ 4.23 cents.  
(Ord. 465 – Feb. 14 Supp.)

8. Prompt Payment Provisions. All charges are net. If the bill is not paid or mailed and postmarked by the 20th day after the billing date, a late payment charge of 1.5 percent of the balance due shall apply. If the due date falls on a Saturday, Sunday or holiday, the deadline for the payment without penalty will be extended to the next working day.

9. Sales Tax. Sales tax is to be added to all electric bills so as to be in compliance with the provisions of the laws of Iowa.

**113.05 RECONNECTION CHARGE.** If a customer whose service has been disconnected, either by the customer's order or by reason of delinquency, requests a reconnection of such service within twelve months of the time of disconnection, a reconnection charge equal to the sum of the monthly minimum charges (including service charges and ratchet demand charges) for the period of disconnection shall also be collected. The minimum reconnection charge shall be equal to the sum of five months' minimum charges.

**113.06 METER SEALS; PENALTY.** The Superintendent shall cause a seal to be installed on each electric meter. The seal may be broken or removed only by the Superintendent or designee. Customers found to have an unauthorized broken seal are subject to a scheduled fine of \$300.00. (Ord. 461 – Feb. 14 Supp.)

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## 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

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

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

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

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

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the Council as to the approval of the license or permit. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall take no action on any application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

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

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

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

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

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

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

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

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

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

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

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

5. Sell, give or otherwise supply any alcoholic beverage, wine or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person,

knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine or beer.

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

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

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

7. 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])*

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

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

9. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

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

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

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

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

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

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## CHAPTER 121

### CIGARETTE PERMITS

121.01 Definitions  
121.02 Permit Required  
121.03 Application  
121.04 Fees  
121.05 Issuance and Expiration

121.06 Refunds  
121.07 Persons Under Legal Age  
121.08 Self-service Sales Prohibited  
121.09 Permit Revocation

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

*(Code of Iowa, Sec. 453A.1)*

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.
6. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; 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.

**121.02 PERMIT REQUIRED.** It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

*(Code of Iowa, Sec. 453A.13)*

**121.03 APPLICATION.** A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13)*

**121.04 FEES.** The fee for a retail cigarette permit shall be as follows:

*(Code of Iowa, Sec. 453A.13)*

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 of the Code of Iowa.

*(Code of Iowa, 453A.13)*

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

*(Ord. 375 – Sep. 03 Supp.)*

**121.08 SELF-SERVICE SALES PROHIBITED.** Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36 (6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.** Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

*(Ch. 121 – Ord. 344 – Dec. 00 Supp.)*

## CHAPTER 122

# PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant. Transient merchants engaging in the sale of food items or concessions shall only solicit and conduct sales while located in a parking space of Third Street near the intersection of Lake Street by the north Stone Pier unless a different location is approved by the City Council. The Transient Merchant’s vehicle or stand may remain at this site only on days when they are open for business.

*(Ord. 485 – July, 2017.)*

**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of two dollars (\$2.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Transient Merchants.
  - A. For one day .....\$ 25.00
  - B. For all or part of a calendar year ..... \$ 100.00Permits for all or part of a calendar year expire on December 31<sup>st</sup>.
3. Peddlers
  - A. For one day .....\$ 25.00
  - B. For one week.....\$ 100.00

*(Ord. 485 – July, 2017.)*

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

**122.07 LICENSE ISSUED.** If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately. No more than three transient merchant licenses shall be issued or in effect at any time.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122.12 NOTICE.** The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122.13 HEARING.** The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

**122.14 RECORD AND DETERMINATION.** The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.15 APPEAL.** If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

**122.16 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.17 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

**122.18 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Lake View Community 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.

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections



122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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## 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 Above Ground 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 method other than upon a properly licensed motor vehicle.

**123.02 PERMIT REQUIRED.** It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

**123.03 APPLICATION.** Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability

insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

**123.06 PERMIT FEE.** A permit fee of ten dollars (\$10.00) 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 flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**123.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

**123.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**123.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 ABOVE GROUND WIRES.** The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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## CHAPTER 124

### SALVAGE YARDS

124.01 Screening and Control  
124.02 Application for Operation  
124.03 Failure to Comply

124.04 Injunctive Relief  
124.05 Continuing Violations  
124.06 Junk and Real Estate Under Different Ownership

**124.01 SCREENING AND CONTROL.** All junk yards or storage areas, within which more than five (5) junk motor vehicles, as defined by this Code of Ordinances, are kept, shall have and maintain the following:

1. A chain link fence or other fence material as approved by the Council surrounding and enclosing the junk yard or storage area at least ten (10) feet in height above ground and at least two (2) feet in depth below the ground.
2. A board or other paneling material placed outside and attached to the chain link fence completely surrounding and enclosing said junk yard or storage area and of such material and color as is approved by the Council.
3. A program, as approved by the Council, for the eradication and prevention of the habitat for rats, vermin, insects and noxious weeds and the implementation of said program.

**124.02 APPLICATION FOR OPERATION.** All owners or operators of junk yards and storage areas for junk motor vehicles shall, within sixty (60) days, or such longer period as may be granted upon application to the Council, present to the Council a statement showing that the owner is in compliance with this chapter.

**124.03 FAILURE TO COMPLY.** Any owner who fails to provide such statement to the Council shall be given ten (10) days' notice to comply or show cause why such compliance cannot be achieved. Said notice shall be given by personal delivery to said owner. If the owner is not a resident of the City, then said notice shall be delivered by certified mail. In the event that no good cause is shown, then the junk yard or storage area shall be deemed a public nuisance and the Council shall initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

**124.04 INJUNCTIVE RELIEF.** In addition, and not by way of limitation, the City may pursue its remedies at law and equity, including but not limited to injunctive relief.

**124.05 CONTINUING VIOLATIONS.** Each day after the ten-day show cause period has elapsed without the owner's showing good cause as to noncompliance shall be deemed a separate violation.

**124.06 JUNK AND REAL ESTATE UNDER DIFFERENT OWNERSHIP.** In the event the owner of stored vehicles is other than the property owner on which the vehicles are stored or the junk yard is maintained, then both the owner of the real estate and the owner of the junk motor vehicles shall show compliance with this chapter and are both liable for compliance herewith.

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## CHAPTER 125

# REGISTRY OF DRUG PRECURSOR SALES

### 125.01 Definition

### 125.02 Registry Requirements

### 125.03 Exception

### 125.04 Violations

**125.01 DEFINITION.** For purposes of this chapter, a “controlled substance precursor” is any product containing the following items:

1. Muriatic acid.
2. (Repealed by Ordinance No. 397 – Aug. 05 Supp.)
3. Anhydrous ammonia.
4. Red phosphorus.
5. Substances containing lithium.
6. Ether.
7. Ephedrine.

**125.02 REGISTRY REQUIREMENTS.** All persons and/or businesses selling, transferring or otherwise passing for consideration any substances containing the above described controlled substance precursors shall require the purchaser or person receiving said substance to provide his or her name, address and telephone number and to produce photo identification. Said information shall be kept in a log that shall be accessible to any law enforcement officer upon request.

**125.03 EXCEPTION.** (Repealed by Ordinance No. 397 – Aug. 05 Supp.)

**125.04 VIOLATIONS.** Any person or business violating this chapter shall be committing a municipal infraction or punishable by any other injunctive remedies that the court may impose, pursuant to Iowa’s municipal infraction authority.

*(Ch. 125 – Ord. 381 - Mar. 04 Supp.)*

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

*(Code of Iowa, Sec. 321.369)*

**135.04 PLAYING IN.** It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

**135.06 USE FOR BUSINESS PURPOSES.** It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods,

wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

**135.07 WASHING VEHICLES.** It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

**135.08 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**135.09 EXCAVATIONS.** No person shall dig, excavate or in any manner disturb any street, parking or alley unless such person first obtains a permit therefor as hereinafter provided:

1. Application. Before such permit is granted, the person shall file with the City a written application. The application shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond

shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.

B. Property Damage - \$50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the 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. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It shall be the responsibility of the abutting property owner to maintain all property outside

the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

**135.11 FAILURE TO MAINTAIN PARKING OR TERRACE.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 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.

## CHAPTER 136

### SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.12 Awnings
136.04 Responsibility for Maintenance	136.13 Encroaching Steps
136.05 City May Order Repairs	136.14 Openings and Enclosures
136.06 Sidewalk Construction Ordered	136.15 Fires or Fuel on Sidewalks
136.07 Permit Required	136.16 Defacing
136.08 Sidewalk Standards	136.17 Debris on Sidewalks
136.09 Barricades and Warning Lights	136.18 Merchandise Display
	136.19 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 ( $\frac{3}{4}$ ) inch or more.
  - B. Horizontal separations equal to one (1) inch or more.
  - C. Holes or depressions equal to three-fourths ( $\frac{3}{4}$ ) inch or more and at least four (4) inches in diameter.
  - D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half ( $\frac{1}{2}$ ) inch or more.
  - E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths ( $\frac{3}{4}$ ) 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 ( $\frac{3}{4}$ ) inch per foot.
3. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
4. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
5. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
6. “Portland cement” means any type of cement except bituminous cement.
7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
8. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2b & e])*

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within



the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2d & e])*

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
  - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
  - C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ( $\frac{1}{2}$ ) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ( $\frac{1}{4}$ ) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Ramps for Handicapped. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

**136.15 FIRES OR FUELS ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

## CHAPTER 137

### VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

*(Code of Iowa, Sec. 364.7)*

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose.

*(Code of Iowa, Sec. 364.7[3])*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets and/or alleys and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
2 R.O. 1907	1/10/02	314	10/23/95
3 R.O. 1907	1/17/02	356	6/17/02
4 R.O. 1907	3/6/03		
44 (37)	3/2/26		
45	3/2/26		
46	3/2/26		
47	3/2/26		
48	3/2/26		
51	9/6/26		
62 (61)	10/2/33		
63 (62)	11/6/33		
71 (70)	9/15/37		
72 (71)	9/15/37		
78 (77)	8/5/40		
79 (78)	8/5/40		
87 (100)	4/7/47		
88 (101)	7/7/47		
89 (102)	7/7/47		
90 (103)	9/18/47		
91 (104)	10/6/47		
92 (105)	10/6/47		
97 (106)	9/18/50		
100 (107)	12/22/52		
101 (108)	12/22/52		
215	12/19/79		
223	3/9/81		

## STREET GRADES

### 138.02 Record Maintained

**138.02 RECORD MAINTAINED.** The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

CODE OF ORDINANCES, LAKE VIEW, IOWA

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## CHAPTER 139

### NAMING OF STREETS

139.01 Naming New Streets  
139.02 Changing Name of Street  
139.03 Recording Street Names

139.04 Official Street Name Map  
139.05 Revision of Street Name Map

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Lake View, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following

changes were made in the Official Street Name Map: (brief description),”  
which entry shall be signed by the Mayor and attested by the Clerk.

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## CHAPTER 145

### DANGEROUS BUILDINGS

145.01 Enforcement Officer  
145.02 General Definition of Unsafe  
145.03 Unsafe Building  
145.04 Notice to Owner

145.05 Conduct of Hearing  
145.06 Posting of Signs  
145.07 Right to Demolish  
145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 GENERAL DEFINITION OF UNSAFE.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

**145.03 UNSAFE BUILDING.** “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF LAKE VIEW, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

#### **EDITOR'S NOTE**

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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## CHAPTER 146

# MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.02 Conversion to Real Property

### 146.03 Conversion Requirements

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

*(Code of Iowa, Sec. 435.1)*

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor

or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

**146.02 CONVERSION TO REAL PROPERTY.** A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

*(Code of Iowa, Sec. 435.26 & Sec. 435.35)*

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated or there is a change in ownership.

**146.03 CONVERSION REQUIREMENTS.** A mobile home, modular home or manufactured home located outside of a mobile home park and converted to real property shall comply with the following requirements:

1. The home shall have a minimum width of twenty (20) feet.
2. The home shall be placed on a permanent foundation which is visually compatible with surrounding residential structures.

*(Ch. 146 – Ord. 351 - Sep. 01 Supp.)*



## CHAPTER 147

# WATER WELL PROTECTION

### 147.01 Contamination of Wells

**147.01 CONTAMINATION OF WELLS.** To prevent contamination of public wells, no potential source of contamination shall be constructed nearer to any such public well than the distances shown below for each such possible source of contamination:

1. Well house floor drains — 5 feet;
2. Water treatment plant wastes — 50 feet;
3. Sanitary and industrial discharges — 200 feet;
4. Floor drains from pump house to surface:
  - A. None within 5 feet;
  - B. 5 to 10 feet — water main materials enclosed in concrete permitted;
  - C. 10 to 25 feet — must be water main material;
  - D. 25 to 75 feet — must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
  - A. None permitted within 25 feet;
  - B. 25 to 75 feet, must be water main material;
  - C. 75 to 200 feet, must be watertight sewer pipe;
6. Force mains:
  - A. None permitted within 75 feet;
  - B. 75 to 200 feet, must be water main materials;
7. Land application of solid waste — 200 feet;
8. Irrigation of wastewater — 200 feet;
9. Concrete vaults and septic tanks — 200 feet;
10. Mechanical wastewater treatment plants — 200 feet;
11. Cesspools and earth pit privies — 200 feet;

12. Soil absorption fields — 200 feet;
13. Lagoons — 200 feet;
14. Chemicals:
  - A. Application to ground surface — 200 feet;
  - B. Above ground storage — 200 feet;
  - C. On or underground storage — 200 feet;
15. Animal pasturage — 50 feet;
16. Animal enclosure — 200 feet;
17. Animal wastes:
  - A. Land application of solids — 200 feet;
  - B. Land application of liquid or slurry — 200 feet;
  - C. Storage tank — 200 feet;
  - D. Solids stockpile — 200 feet;
  - E. Storage basin or lagoon — 200 feet;
18. Earthen silage storage trench or pit — 200 feet;
19. Basements, pits, sumps — 10 feet;
20. Flowing streams or other surface water bodies — 50 feet;
21. Cisterns — 100 feet;
22. Cemeteries — 200 feet;
23. Private wells — 200 feet;
24. Solid waste disposal sites — 200 feet.

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## CHAPTER 150

### BUILDING NUMBERING

#### 150.01 Definitions

#### 150.02 Owner Requirements

#### 150.03 Building Numbering Map

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

**150.02 OWNER REQUIREMENTS.** Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

**150.03 BUILDING NUMBERING MAP.** The Clerk shall be responsible for preparing and maintaining a building numbering map.

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## CHAPTER 151

### TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

**151.03 DUTY TO TRIM TREES.** The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring

that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2c, d & e])*

**151.04 TRIMMING TREES TO BE SUPERVISED.** Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**151.05 DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.06 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. Removal from City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the Council shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the Council shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the nuisance to be removed and the cost assessed against the property.

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

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## CHAPTER 155

### BUILDING PERMITS

155.01 Building Officials  
155.02 Permit Required  
155.03 Application  
155.04 Amendments  
155.05 Existing Buildings  
155.06 Action on Application

155.07 Permit Issuance  
155.08 Restrictions  
155.09 Condition of the Permit  
155.10 Revocation  
155.11 Time Limits  
155.12 Abatement of Violation  
155.13 Violation and Penalty

**155.01 BUILDING OFFICIALS.** The Building Inspector, the Mayor and the Clerk are the building officials and are responsible for the administration and enforcement of this chapter.

**155.02 PERMIT REQUIRED.** No building or other structure shall be erected, structurally altered or moved within the City without first receiving a permit therefor.

**155.03 APPLICATION.** Application for a permit shall be made in writing, filed with the Clerk and shall contain the following information:

1. Name. The name and address of the applicant.
2. Location. The street address and full legal description of the property.
3. Proposed Work. The nature of work proposed to be done.
4. Use. The use for which the structure is or will be used.
5. Plans. Application for permits shall be accompanied by such drawings of the proposed work as the building officials may require.
6. Plot Diagram. There shall also be filed with the application a plot diagram in a form and size suitable for filing permanently with the permit record, with all dimensions figured, showing accurately the size and exact location of all proposed new construction or, in the case of demolition, of such construction as is to be demolished and of all existing buildings.
7. Deadline. Permit applications must be submitted to the Clerk at least one week prior to the next scheduled Council meeting. An application that needs approval before the next scheduled Council meeting will be considered on its merits by the building officials.

**155.04 AMENDMENTS.** Nothing shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application. Amendments will be allowed for only structures which were included on the original building permit. Structures not on the original permit shall required a new building permit. *(Ord. 415 – Dec. 07 Supp.)*

**155.05 EXISTING BUILDINGS.** Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of a building, for which a valid permit was issued or lawful approval given before December 27, 1979.

**155.06 ACTION ON APPLICATION.** The Mayor and Clerk shall examine permit applications within a reasonable time after filing. Upon examination the Mayor and Clerk may approve or disapprove the permit application or in their discretion may forward the application to the Council for consideration. If the application is forwarded to the Council, the Council shall, within a reasonable time, examine the application and the recommendations of the building officials and either approve or disapprove the application.

**155.07 PERMIT ISSUANCE.** If the application is approved, the building officials shall issue a building permit to the applicant in triplicate, with one copy for the applicant, one copy for the County Assessor and one copy to be retained in the City records. If the application is disapproved the applicant shall be notified of the disapproval and the reasons therefor.

**155.08 RESTRICTIONS.** No permit for the erection, alteration, use or occupancy of a building or similar structure shall be granted unless it definitely appears that such erection, alteration, use or occupancy shall not cause or be the source of the following:

*(Code of Iowa, Sec. 414.24)*

1. Noise. Any undue noise.
2. Electrical Interference. Any undue radio or television interference.
3. Odors. Any offensive odors.
4. Refuse. Any offensive or unsightly refuse.
5. Smoke. Any offensive or undue smoke.
6. Fire Hazard. Any fire hazard.



7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.
8. Congestion. Any undue gathering, congregating, parking of cars, or undue congestion of people or traffic.
9. Other. Any effect which will be obnoxious, offensive, dangerous or injurious to the health, welfare and safety of citizens.

**155.09 CONDITION OF THE PERMIT.** All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. It is unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

**155.10 REVOCATION.** The building officials may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

**155.11 TIME LIMITS.** In the event that construction covered by a permit is not initiated and under way within one year from the date of issuance of the permit, such permit shall be deemed void and of no effect. In the event that construction is substantially complete one year from the date of issuance of the permit, a six month time extension may be granted upon the application for an amendment to the building permit and approval by the Council. If the project is not complete at the end of the amendment period, a new building permit shall be required.

*(Ord. 415 – Dec. 07 Supp.)*

**155.12 ABATEMENT OF VIOLATION.** Any building or structure erected, altered, used or occupied in violation of this chapter shall be determined a nuisance and the same may be abated by the City in the manner provided for the abatement of nuisances.

**155.13 VIOLATION AND PENALTY.** Any person who violates this chapter by beginning construction on a project for which a building permit is required, while not holding an approved building permit, will be subject to a civil penalty of fifty dollars (\$50.00) per occurrence. In addition, the person in violation shall be required to pay for a building permit and pay the applicable fee.

*(Ord. 383 – Mar. 04 Supp.)*

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## CHAPTER 158

### SITE PLANS

158.01 Site Plans	158.05 Site Plan Information
158.02 Statement of Intent	158.06 Amendments to Approved Site Plans
158.03 Design Standards	158.07 Additional Requirements
158.03A Stormwater Drainage Requirements – Overland Flow Channel	158.08 Expiration of Approval
158.04 Submittal and Review Procedure	158.09 Fee for Site Plan Review

**158.01 SITE PLANS.** Site Plans are required whenever the owner of any property in the City undertakes new construction or reconstruction with a building permit value of \$25,000 or more (collectively “improvements” or “development”), except for the construction of single-family and two-family homes on existing platted lots. For small proposed improvements not impacting other properties the Zoning Administrator may choose to not require a site plan. Site Plans are required for multiple-family dwellings and townhomes. A Site Plan is required for any development on lands proposed to be sub-divided.

**158.02 STATEMENT OF INTENT.** It is the intent and purpose of this chapter to establish a procedure which will enable the City to review certain proposed improvements to and development of property. The Site Plan shall be designed to reflect consideration for (a) impacts to existing and proposed developments surrounding the site; (b) impact on public rights-of-way, utilities, facilities and services; and (c) impact to existing on-site conditions. Further, in the interest of promoting the general welfare of the community and to protect the value of buildings and property, the image and character of a community is considered important. It is recognized that the community should be visually attractive, and the manner in which a use is accomplished is as important as the use. The quality of architecture, building construction and building materials is important to the preservation and enhancement of building and property values, prevention of the physical deterioration of buildings, the promotion of the image of the community, and the general welfare of its citizens.

**158.03 DESIGN STANDARDS.** Site Plans shall reflect the following standards of design which are necessary to insure the orderly and harmonious development of property in such manner as will safeguard property values and the public’s health, safety and general welfare:

1. The design of the proposed improvements shall make adequate provisions for surface and subsurface drainage, for connections to water and sanitary sewer lines, each so designed as to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide, or other endangerment of adjoining or surrounding property.
2. The proposed development shall be designed with a proper regard to topography, surface drainage, natural drains and streams, wooded area, and other natural features which will lend themselves to proper, harmonious and attractive development of the site.
3. The proposed improvements shall be designed and located within the property in such manner as not to unduly diminish or impair the use and enjoyment of adjoining property, and to this end shall minimize the adverse effects on such adjoining property from automobile headlights, illumination of required perimeter

yards, refuse containers, and impairment of light and air. Lighting, and its impact on adjacent property, shall be shown on the Site Plan. For the purpose of this section, the term “use and enjoyment of adjoining property” shall mean the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term “use and enjoyment of adjoining property” shall mean those uses permitted under the zoning district in which such adjoining property is located.

4. The proposed development shall have such entrances and exits upon adjacent streets and such internal traffic circulation pattern as will not unduly increase congestion on adjacent or surrounding public streets. Any proposed development which will include a loading dock or truck entrance facing an exterior street must, as a part of the Site Plan approval process, conform to any and all requirements which may be established by the City with respect to the location of such loading dock or truck entrance.

5. The proposed development shall have such buffers, screen fences and landscaping and shall be designed, and the buildings and improvements located, in such a manner as to not unduly diminish or impair the use and enjoyment of adjoining or surrounding property. Buffers are required to minimize the impact of automobile headlights on adjacent non-commercial property.

6. The proposed development shall not duly increase the public danger of fire or diminish the public safety, and shall be designed to adequately safeguard the health, safety and general welfare of the public and of persons residing and working in the development and in the adjoining or surrounding property.

7. The proposed development shall utilize storm water management to limit the release from any site to no more than a five-year undeveloped release rate.

8. The proposed development shall conform to all applicable provisions of the Code of Iowa, as amended, and all applicable provisions of the Code of Ordinances, as amended.

**158.03A STORMWATER DRAINAGE REQUIREMENTS – OVERLAND FLOW CHANNEL.** Overland flow channels for stormwater runoff downstream of stormwater runoff surface drainage outlets, overflow structures, pipes and culverts shall be designed as vegetative swales with soft armor protection as appropriate. Whenever possible the use of bioretention/filtration practices shall be implemented along overland flow channels.

Vegetated swales shall be reinforced by transition mats and turf reinforcement mats as required to prevent erosion. Requirements for channel protection shall be calculated based on the unvegetated or installation day performance ratings. Documentation shall be submitted for all stormwater drainage channels, including the design of soft armor protection and bioretention/filtration practices.

The City reserves the right to require the incorporation of bioretention/filtration practices for any overland flow channel for which the City determines such practices are practical as a means of reducing and filtering runoff.

The use of rip-rap or similar hard armor protection of overland flow channels is discouraged and shall be implemented only with the approval of the City.

**158.04 SUBMITTAL AND REVIEW PROCEDURE.** Site Plans shall be submitted to the City for review and approval.

1. One (1) copy of the Site Plan shall be submitted to the Clerk, who shall refer the Site Plan to the Planning and Zoning Commission for comment and recommendation prior to action by the Council. Prior to an official submittal of a Site Plan for review by the Planning and Zoning Commission, an applicant may submit a concept and site plan for initial review by the Clerk for comment.
2. The Clerk may refer the Site Plan to appropriate City departments, officials and the City Engineer for their review and comment regarding the Site Plan's compliance with the Code of Ordinances, and its effects upon the City's municipal utilities and public street system. Any comments by any department or official will be forwarded to the Planning and Zoning Commission.
3. The Planning and Zoning Commission shall review the Site Plan for conformity with the regulations and design and architectural standards of this chapter, and may confer with the applicant on changes deemed advisable in the Site Plan.
4. The Planning and Zoning Commission shall forward its recommendation to the City Council for approval, modification or disapproval of the Site Plan within forty-five (45) days of the date of the submission of the Site Plan.
5. The Planning and Zoning Commission may, in its discretion, hold a public hearing on the Site Plan and prescribe the notice thereof and to whom such notice shall be given.
6. Upon receipt of the recommendations of the Planning and Zoning Commission or, if no recommendations are received within forty-five (45) days of the referral to the Commission, the Council shall proceed with its action on the Site Plan. The Council may approve the Site Plan, approve the Site Plan with modifications, or disapprove the Site Plan.
7. No building permit for any structure for which a Site Plan is required shall be issued until the Site Plan has been approved by the Council.

**158.05 SITE PLAN INFORMATION.** The purpose of the Site Plan is to show all information needed to enable the City staff, the Planning and Zoning Commission, and the Council to determine if the proposed development meets the requirements of this chapter and other provisions of the Code of Ordinances.

1. Information Required. The Site Plan shall include the following information concerning the proposed development:
  - A. Names of all persons having an interest in the property, legal description of property, point of compass, scale and date.
  - B. Applicant's name, address, project location, proposed land use and present zoning, location and names of adjoining subdivisions, the numbers of the adjoining lots therein and the names and addresses of adjoining landowners.
  - C. If the applicant is other than the legal owner, the applicant's interest shall be stated.
  - D. Name and address of persons who prepared the Site Plan.
2. Required Illustrations. The Site Plan shall clearly set forth the following information concerning the proposed development.

- A. Property boundary lines, dimensions, and total area of the proposed development.
- B. Existing and proposed contour lines of the proposed development and fifty (50) feet beyond the boundaries of the proposed development at intervals of not more than two (2) feet. If substantial topographic change is proposed, the existing topography of the development and of the surrounding area shall be illustrated on a separate map, and the proposed finished topography shown on the Site Plan.
- C. The availability, location, size and capacity of existing utilities, and of proposed utilities.
- D. The proposed use of building materials, location, size, height, shape, use, elevation, building sign type, and illustration of all buildings or structures in the proposed development.
- E. The total square footage of building floor area, both individually and collectively in the proposed development.
- F. Existing buildings, rights-of-way, public sidewalks, street improvements, utility easements, drainage courses, streams and wooded areas.
- G. The number of dwelling units, offices, etc., planned for the site.
- H. A vicinity sketch showing adjacent existing land uses within five hundred (500) feet of the property.
- I. Location, number, dimensions and design of off-street parking in the proposed development, including:
  - (1) Driveways, islands and planters.
  - (2) Striping and curbs.
  - (3) Loading facilities.
  - (4) Type and location of lighting.
  - (5) Surface treatment.
- J. Open spaces, yards, recreational areas, public sidewalks, walkways, driveways, outside lighting, walls, fences, monuments, statues, and other man-made features to be used in the landscape of the proposed development.
- K. Facilities for the collection and disposal of garbage and trash, and screening structures.
- L. Walls, fences or other artificial screens to be used as buffers shall be shown in elevation and perspective with proposed height and structural material indicated.
- M. A Site Lighting plan shall be provided, indicating the location, type, fixture height, power rating and shielding method of all existing and proposed lighting. A photometric plan shall be provided that details the horizontal illumination of the site and the vertical light trespass along the perimeter of the site.
- N. Storm Water Management Plan shall be provided which shall include calculations of detention sizing and release rate control facilities.

O. Traffic considerations or utility capacities and all other considerations pertinent to the proposed use may be requested for illustration or statistical purposes.

P. Free standing identification sign(s); location, setback, dimensions, height and illustration.

Q. Location and type of all plants, trees, ground cover to be used in the landscape. Landscaping to be used for screening purposes shall be illustrated with the size and exact names of plants, shrubs or trees to be planted clearly indicated. The planting location shall not adversely affect utility easements or service lines. On all Site Plans the following requirements shall be met:

(1) Implementation. The landscaping plan shall be submitted for approval as part of Site Plan submittal. The landscaping plan is to show the following information:

- (a) Location of trees and shrubs.
- (b) Size and species of trees and shrubs.
- (c) Number of each size and species of trees and shrubs.
- (d) Type of ground cover and form of erosion control.

(2) Approval of Landscaping. Landscaping is to be in place at the time an occupancy permit is approved. Should completion of landscaping be delayed because of the season of the year, a temporary occupancy permit may be issued if the developer posts a bond or other acceptable guarantee in the amount of the landscaping as completed. When filing a Site Plan, a developer may submit a list of alternate or substitute species from the permitted or established list to be used should the preferred material not be available when needed and required.

(3) Maintenance. All landscaping, buffering and screening shall be maintained at all times to conform to the regulations established in this chapter. Landscaping which is not maintained in a manner consistent with this chapter shall be replaced, as follows:

- (a) Replacement includes, but is not limited to replacing plants damaged by insects, soil conditions, disease, vehicular traffic, vandalism and acts of God.
- (b) Required landscaping shall be replaced with equivalent vegetation if it is not living within one (1) year of a Certificate of Occupancy.
- (c) Existing landscaping which was preserved shall be replaced with new landscaping if it is not living within two (2) years of a Certificate of Occupancy being issued.
- (d) Landscaping as part of a buffer shall be maintained as long as the buffer is required by this chapter or the Code of Ordinances.
- (e) Replacement landscaping shall be installed within thirty (30) days following notification by the Building

Official that a violation of this chapter has occurred, or proper guarantees provided.

- R. Such additional information, drawings or other materials necessary to describe a proposed project as may be requested by the City Engineer or Planning and Zoning Commission.

**158.06 AMENDMENTS TO APPROVED SITE PLANS.** An approved Site Plan may be amended when there is any change in location, size, design, conformity or character of buildings and other improvements, provided that the amended Site Plan conforms to the provisions of this chapter and other provisions of the Code of Ordinances. An amended Site Plan shall be submitted to the City and reviewed by the Planning and Zoning Commission and approved by the City Council in the same manner as an original Site Plan.

**158.07 ADDITIONAL REQUIREMENTS.** As a part of the Site Plan approval process, the property owner may be required by the Council to install public utilities, including but not limited to, water lines, storm sewer, sanitary sewer, fire hydrants and such other utilities as applicable to properly serve the proposed plan. The property owner may also be required by the Council to construct street paving and sidewalks as applicable to properly serve the proposed plan. Where required as part of a Site Plan approval, utilities, streets and sidewalks shall be constructed in accord with the City's construction standards for those portions within the public right-of-way and to be dedicated to the City. Utilities, streets and sidewalks may also be required to be constructed to the same specifications for those undedicated portions where such utilities and improvements may have a direct affect on the future safety, proper functioning and maintenance of those portions to be dedicated.

**158.08 EXPIRATION OF APPROVAL.** All Site Plan approvals shall expire and terminate three hundred and sixty-five (365) days after the date of Council approval unless a building permit has been issued for the construction provided for in the Site Plan. The Council may, upon written request by the property owner, extend the time for the issuance of a building permit for sixty (60) additional days. In the event the building permit for construction provided for in a Site Plan expires or is cancelled, then such Site Plan approval shall thereupon terminate.

**158.09 FEE FOR SITE PLAN REVIEW.** There is no application fee when filing the site plan, but the applicant is responsible for all costs, including engineering fees, in excess of \$200. The applicant must agree to the use of the engineer prior to incurring engineering fees. The site plan may not be approved if the P & Z requests the use of an engineer but the applicant refuses.

*(Chapter 158 - Ord. 427 – Nov. 11 Supp.)*



## CHAPTER 160

# FLOOD PLAIN REGULATIONS

160.01 Purpose	160.11 Flood Plain Development Permit Required
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**160.01 PURPOSE.** It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Restrict Use. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
2. Vulnerable Uses Protected. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Base flood” means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been

certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and

B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and

D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. “One hundred (100)-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. “Recreational vehicle” means a vehicle which is:

A. Built on a single chassis;

- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - C. Designed to be self-propelled or permanently towable by a light duty truck; and
  - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
23. "Special flood hazard area" means the land within a community subject to the "100-year flood." This land is identified as Zone A on the Flood Insurance Rate Map.
24. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
25. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.
26. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more.

All additions constructed after June 4, 1980 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

**160.03 LANDS TO WHICH CHAPTER APPLIES.** The provisions of this chapter shall apply to all lands within the jurisdiction of the City which are located within the boundaries of the Flood Plain District as shown on the Flood Insurance Rate Map for the City.

**160.04 RULES FOR INTERPRETATION OF FLOOD PLAIN DISTRICT.** The boundaries of the Flood Plain District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Mayor shall make the necessary interpretation. The Planning and Zoning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Mayor in the enforcement or administration of this chapter.

**160.05 COMPLIANCE.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

**160.06 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater

restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

**160.07 INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

**160.08 WARNING AND DISCLAIMER OF LIABILITY.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Flood Plain District will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**160.09 FLOOD PLAIN MANAGEMENT STANDARDS.** All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data.

1. All development within the Flood Plain District shall:
  - A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In

such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.



C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

A. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse or lateral movement. The following specific requirements (or their equivalent) shall be met:

(1) Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one (1) additional tie per side;

(2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds.

(4) Any additions to factory-built homes shall be similarly anchored.

6. Utility and Sanitary Systems.

A. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

B. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain District.

11. Accessory Structures. The exemption of detached garages, sheds, and similar structures may result in increased premium rates for insurance coverage of the structure and contents; however, said detached garages, sheds and similar accessory type structures are exempt from the 100-year flood elevation requirements when:

- A. The structure shall not be used for human habitation.
  - B. The structure shall be designed to have low flood damage potential.
  - C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - D. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
  - E. The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.
12. Recreational Vehicles.
- A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
    - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
    - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
  - B. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of factory-built homes.
13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

**160.10 ADMINISTRATION.** The Mayor shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

- 1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the Flood Plain District.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

**160.11 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED.** A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

**160.12 APPLICATION FOR PERMIT.** Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.

6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

**160.13 ACTION ON APPLICATION.** The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Planning and Zoning Commission.

**160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS.** Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

**160.15 VARIANCES.** The Planning and Zoning Commission may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels

shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

**160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED.** In passing upon applications for variances, the Commission shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

**160.17 CONDITIONS ATTACHED TO VARIANCES.** Upon consideration of the factors listed in Section 160.16, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

**160.18 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
  - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.
  - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, except unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary,

building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**160.19 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

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## CHAPTER 161

### PUBLIC LAKE ACCESS REGULATIONS

161.01 Purpose

161.02 Definition

161.03 Procedures for Issuance of Permits

161.04 Criteria for Docks and Related Structures

161.05 Fees

161.06 Eligibility, Waiting Lists and Rights

161.07 Commercial Use Prohibited

**161.01 PURPOSE.** The purpose of this chapter is to establish policies and regulations governing the use of public lake access areas so that fairness, uniformity and consistency may be applied in the issuance of dock and hoist permits extending from these access areas, to designate maintenance responsibilities and to define the rights of the general public and those persons to whom permits have been issued.

**161.02 DEFINITION.** A public access means a tract of land of any dimension adjacent to and fronting on a body of water that has been dedicated to the use of the general public and is by matter of record under the control of the City, except those areas commonly known as the Town Bay, Crescent Beach and Camp Crescent, on which no docks or other appurtenances are permitted unless owned by the City.

**161.03 PROCEDURES FOR ISSUANCE OF PERMITS.** The applicants for a dock site extending from a public access must complete an application form by filling in the information requested, submitting the required fee and submitting evidence of liability insurance in an amount not less than \$1,000,000.00, with the City named as an additional insured party. The application form, fee and evidence of insurance are to be submitted to the City. Applications will be presented before the Planning & Zoning Commission who may approve or deny the issuance of new permits.

**161.04 CRITERIA FOR DOCKS AND RELATED STRUCTURES.** The City shall require the permittees to comply with the criteria set forth below:

1. Materials and Dimensions. Docks shall conform to DNR Rule 571-16.
2. Auxiliary Equipment and Facilities. Hoists will be permitted only if specifically authorized in the "dock assignment and permit". A permitted hoist must be placed beside the permitted dock and no hoist shall be allowed adjacent to a portion of a dock that is more than six feet wide. The number of hoists located on a public dock shall not be limited unless the number so located interferes with ingress and egress of private

docks on either side or interferes with boat access on the public dock itself. Steps and handrails necessary to permit safe access from the top of the bank to the dock site are permitted.

3. Other Appurtenances. Other appurtenances may be permitted providing they are included on the application and their placement does not in anyway interfere with ingress and egress of private docks on either side. In any case, the assigned permittees named on the application shall be solely responsible for the safe condition of the dock and appurtenances at all times and specifically shall further agree to save harmless and indemnify the City, the DNR and the State of Iowa, their officers and employees for any damage done to personal property, or any personal injury resulting from accident on or about the dock facility. The following structures are not allowed on public lands in the Crescent Park Addition: rafts, diving boards, swings, slides, toys or other types of playground equipment, clotheslines and poles, sundials, rock gardens or any other item that is not necessary for access and that creates the appearance of private ownership.

4. Permit Duration, Nontransferability and Cancellation. The dock assignment permit will be for a period not to exceed five years. Certificates of insurance and the appropriate fee must be filed with the City annually prior to the dock being placed in the water. A contact person will be designated by the applicants of each dock with whom the City shall communicate and notice to such agent on any matter shall constitute notice to all designated permittees. The contact person shall at all times keep the City informed as to all persons who are sharing in dock expense and using the facility for boat hoist storage or tie-up. A dock assignment permit may be cancelled by the City at anytime for failure to comply with regulations or when in the best interests of the public as determined by the City. Dock assignments are not transferable except by issuance of a new permit.

5. Winter Storage of Dock Materials. Docks shall be removed from the lake by November 15 each year. All dock materials stored on the lakeshore public area must be stored in a neat, safe and orderly manner so as not to obstruct public pedestrian access along the walkway or from the walkway to the shoreline. Docks must be placed in the lake or removed from public land by Memorial Day each year. Boat hoists stored on public land during the winter shall meet the same requirements stated above or shall be stored on private property at another location if these requirements cannot be met.

6. Permittees Responsible for Construction and Maintenance. Permittees are responsible for construction, installation and removal of docks. The assigned permittees named on the application shall be solely responsible for the safe condition of the dock at all times and specifically further agree to maintain and keep the access free of weeds, litter and other debris. Maintenance of the access shall at all times be comparable with private properties on either side of the access.

7. Electrical Facilities. Electric facilities must include ground fault interrupter systems and installation must comply with the National Electric Code (NFOA).

8. Bulk Fuel. No bulk fuel, explosive, hazardous material, or fuel distribution line will be permitted on public property.

9. Retaining Walls. Retaining walls and terrace walls intended to control bank erosion or otherwise stabilize the bank shall be constructed of CCA-treated timbers, native stone, or limestone wall stone, landscape block or poured concrete. Materials containing creosote are not allowed. Existing retaining walls may be used if maintained in good repair and if safe for public use.  
*(Ord. 382 – Mar. 04 Supp.)*

10. Storage Buildings. Storage buildings of any type, including boat storage buildings and yard/tool sheds, are not permitted on public access areas.

**161.05 FEES.** Fees for dock and hoist permits shall be as follows:

1. Dock Fee. The permit fee for a dock shall be \$100.00. If the adjacent property owner agrees to maintain the public property abutting their private property, \$75.00 of the fee shall be waived, resulting in a cost to the applicant of \$25.00.

2. Hoist Fee. A \$30.00 permit fee shall apply for each hoist.

**161.06 ELIGIBILITY, WAITING LISTS AND RIGHTS.**

1. Eligibility. Dock and hoist privileges on public access areas are reserved to residents and property owners of the City. However, this reservation does not preclude the right of the general public from the use of the access, dock or any appurtenances except boat hoists.

2. Limitations. At each dock site, there shall be allowed a maximum of two families or entities to share that dock site. At each dock site, the maximum number of hoists is the number needed to accommodate no more than two boats and four personal water crafts or other small crafts.

*(Ord. 384 – May 04 Supp.)*

3. Waiting Lists. Lake View residents and property owners applying for dock or hoist privileges may be placed on a waiting list if these accesses have already reached capacity as determined by previous provisions herein. Names shall be placed on the list in numerical order as they are filed and received by the City and the resident or the City shall then notify the property owner when a vacancy occurs or when space becomes available.
4. Rights of the General Public. Public use of docks will be governed by DNR Administrative Rule 571-16.

**161.07 COMMERCIAL USE PROHIBITED.** Commercial use of any dock or appurtenances extending from a public access is prohibited. Commercial use shall mean the exchange of goods or services on any dock on or over waters under the jurisdiction of the DNR in which the exchange of goods or services involves a fee, either directly or indirectly.

*(Ord. 334 – June 99 Supp.)*

## CHAPTER 164

### PROPERTY MAINTENANCE

164.01 Title	164.07 Maintenance of Premises
164.02 Purpose	164.08 Building Maintenance
164.03 Interpretation	164.09 Refuse and Inoperable Vehicles
164.04 Abrogation and Greater Restrictions	164.10 Residing and Reconstruction
164.05 Definitions	164.11 Exception for Farms and Existing Estates
164.06 General Maintenance Standards	164.12 Violations

**164.01 TITLE.** This chapter may be referred to as the *Property Maintenance Code* and is herein referred to as “this Code.”

**164.02 PURPOSE.** The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for proper repair, demolition, or vacation of premises which do not comply with this Code.

**164.03 INTERPRETATION.** The provisions of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal of any other power granted by the Code of Iowa. Nothing in this Code shall be construed to abrogate the Federal or State Constitutions, or to grant powers to the City that are otherwise reserved by and for Federal and State government.

**164.04 ABROGATION AND GREATER RESTRICTIONS.** It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply, the higher standard shall prevail.

**164.05 DEFINITIONS.** Words used in this Code shall have the same meaning as those defined by the Zoning Ordinance, unless otherwise defined by this Code.

1. Abandoned Building. Any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or has structural deficiencies.
2. Deterioration. A state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.
3. Enforcement Officer. The Mayor, Chief of Police or City Administrator.
4. Exposed to Public View. Any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.
5. Exterior. Yards and other open outdoor spaces on premises, and the external surfaces of any structure.
6. Extermination. The control and elimination of insects, rodents, and vermin.
7. Farm. A tract of land having an area of two (2) or more acres devoted to raising of crops or domestic livestock.
8. Infestation. The presence of insects, rodents, vermin, or other pests on the premises to the extent that they constitute a health hazard, are deemed by an Enforcement Officer to be in threat of spreading to adjoining premises, or are exposed to public view.
9. Junk. Old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
10. Nuisance. Physical conditions that are dangerous or detrimental to the health or safety of persons on or near the premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property.
11. Owner. Any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.

12. Premises. A lot, plot, or parcel of land together with the structures thereon.

13. Public Authority. Any officer of any department or branch of the City, County, or State charged with regulating health, fire, zoning or building regulations, or other activities concerning property in the City.

14. Refuse. Any material that has lost its value for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrescible or nonputrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk; paper or cardboard; plastic; metals; glass; yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food; crockery; bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.

15. Responsible party. Any person having possession, charge, care, or control of real or personal property, whether with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

16. Vehicle. Any device designed to transport a person or property by land, air, or water, such as automobiles, trucks, trailers, motorcycles, tractors, buggies, wagons, boats, airplanes, or any combination thereof, except bicycles.

17. Vehicle, Inoperable. Any vehicle that is not licensed for the current year as required by law or which exhibits any of the following characteristics: broken, damaged, or missing windshield or other glass customary to the vehicle; a missing fender, door, bumper, hood, wheel, steering wheel, or exhaust system; lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed; has become a habitat for rats, mice, snakes, or other vermin or insects; or constitutes a threat to the public health and safety because of its defective or obsolete condition, or has not moved in the past 30 days.

**164.06 GENERAL MAINTENANCE STANDARDS.** The exterior of every premises and structure shall be maintained in reasonable repair, to the end that the premises and each structure thereon will be preserved; adjoining properties protected from blighting influences; and safety and fire hazards eliminated.

**164.07 MAINTENANCE OF PREMISES.** Each and every premises shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestation. It shall be the duty of the responsible party to keep the premises free of all said conditions and to promptly remove and abate same, which include but are not limited to the following declared nuisances:

1. Weeds or grasses allowed to grow to a height greater than six (6) inches on the average, or any accumulation of dead weeds or grass on any non-farm property which is not within the jurisdiction of the County Weed Commissioner.
2. Accumulation of refuse not stored in suitable collection containers.
3. Any structure which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed or kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof.
4. Any inoperable vehicle which is exposed to public view, unless located on the premises of a lawfully operated junk yard or undergoing repairs in an expeditious manner at a vehicle repair business.
5. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems, or to violate solid waste disposal regulations.
6. Failure to establish a permanent cover of perennial grasses or ornamental ground cover on any non-farm property as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gullying, or by wind or water, provided, however, that exception shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident's control.
7. Any nuisance as defined herein or described as such by Chapter 657 of the Code of Iowa.



8. Conditions which are conducive to the harborage or breeding of vermin.
9. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools, and drain fields, which have failed or do not function properly, as may be evidenced by overflow, leakage, seepage, or emanation of odors, or which do not comply with the Sac County Department of Health regulations. Septic tanks, cisterns, and cesspools which are no longer in use shall be removed, or emptied and filled with clean dirt or sand.
10. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
11. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to safety or buildings; major parts thereof, such as a limb, which may be dead or broken or otherwise pose a threat to safety or buildings on adjoining premises; any vegetation located on private property which overhangs and is less than 15 feet above the traveled portion of any public street, or less than eight feet vertically, or which protrudes into any public sidewalk.
12. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

**164.08 BUILDING MAINTENANCE.** Every building shall be maintained to be weather and water tight, and free from excessively peeling paint (which shall equal 50% of the exterior structure) or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars, and crawl spaces shall be free of standing water and hazards. All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards. Polystyrene board, Tyvek, and insulation board are not acceptable permanent finishes.

**164.09 REFUSE AND INOPERABLE VEHICLES.** Inoperable vehicles shall be stored within a fully enclosed building or other location not exposed to

public view, or shall be removed from the premises. A fully enclosed wood slat or slatted chain link fence or wall sufficient to prevent unauthorized entrance, access and visibility of the motor vehicle and at least six (6) feet in height shall constitute "not exposed to public view." All refuse shall be contained in suitable collection containers; kept free from infestation; and shall be removed weekly.

**164.10 RESIDING AND RECONSTRUCTION.** Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of other properties in the vicinity of the premises. Their appearance, as judged under prevailing appraisal practices and standards, shall not depreciate the value of the adjoining premises or the neighborhood.

**164.11 EXCEPTION FOR FARMS AND EXISTING ESTATES.** Farms, and non-farm premises having an area of more than two acres on January 1, 2002, shall be exempted from this Code for such time that the area of the non-farm premises exceeds one acre.

**164.12 VIOLATIONS.**

1. Enforcement. The creation or maintenance of a violation of this ordinance is prohibited and shall constitute a misdemeanor. Each day that a violation is permitted to continue constitutes a separate offense.

A. All inspections, enforcement actions, and hearings on violations, unless expressly stated to the contrary, shall be under the direction and supervision of an Enforcement Officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The Enforcement Officers are hereby authorized to abate such violations in accordance with the procedures of this Code and to serve notice to abate same, whether upon the owner or other responsible party for a premises upon which a violation is being maintained, or upon the person or persons causing or maintaining a violation.

B. If a violation is found to exist on an owner-occupied premises and the owners demonstrate that the cost of remedying such violation would exceed the households annual disposable income and thereby cause a financial hardship, enforcement shall be held in temporary abeyance until a means of financing or assistance can be identified.

C. The objective of this Code being the abatement and/or removal of violations of this Code. Violations may be addressed by maintenance of and administrative abatement process; the municipal infraction process; by court proceedings; or by City abatement and assessment of cost therefor against the responsible party or assessment of cost against the property, at the option and in the discretion of the City. In determining whether to use the administrative abatement process or court proceedings, consideration will be given to evidence of whether an eminent health or safety hazard exists or whether the person has previously been notified of or charged with violations of the same or other provisions of the Code in the past. The determination to proceed through the use of an administrative abatement process or the municipal infraction process, court proceedings or City abatement and assessment of cost shall be the prerogative of the City.

D. It is further provided by this Code that if the City determines that an emergency exists which creates a dangerous and imminent health or safety hazard to persons, property or the general public which requires immediate action, the City may order such action as may be necessary to meet the emergency. Any orders issued pursuant to this paragraph shall be effective immediately or in the time and manner prescribed in the order itself.

1.5 Enforcement of Weeds or Grasses Violations Under Section 164.07(1). In the event the Enforcement Officer chooses to utilize administrative abatement to address violations of Subsection 1 of Section 164.07 of the Lake View Municipal Code, the said Enforcement Officer shall send a written notice via certified mail or personal service to the owner of the property wherein the violation exists, which notice shall advise the owner of the said property that such weeds or grasses shall be cut or destroyed within five (5) days of the date of the mailing or personal service of the notice. The owner may request a hearing before the City Administrator to contest existence of the violation. The request for hearing shall be in writing; shall identify the reasons why the owner contest the officer's determination and shall be delivered to the City Clerk before the end of the fifth (5<sup>th</sup>) day after mailing of the notice to the property owner. If no request for hearing is filed, the officer may cut or destroy the weeds or grasses or vegetation and may assess the costs thereof against the property unless the cost is paid within thirty (30) days of the invoice date by the owner. If a request for hearing is made, no

action shall be taken to cut or destroy the weeds or grasses, unless such weeds or grasses shall be located between the sidewalk and the traveled portion of any street in the City, which grasses or weeds may be cut immediately by the Enforcement Officer. Any hearing so requested shall be held within three (3) days of the date of the request therefor. Any appeal taken from the decision of the City Administrator shall be made to the City Council within five (5) days of the date of the decision by the City Administrator.

2. Notice. When service of a notice to abate is required, the following methods of service shall be deemed adequate:

A. By personal service upon the owner or other responsible party of the property upon which the nuisance exists, or upon the person or persons causing or maintaining the violation.

B. If, after reasonable effort, personal service cannot be made, any two of the following methods of service shall be considered adequate: (1) sending the notice by certified mail, return receipt requested to the last known address; (2) publishing the notice once a week for two consecutive weeks in a newspaper of general circulation in the City of Lake View, Iowa; or (3) by posting the notice in a conspicuous place on the property building deemed as nuisance.

3. Appeal. Any person affected by any notice to abate a violation of this Code may request a hearing on the matter before the City Council, provided that a written appeal shall be filed with the City Administrator within five days after the notice to abate was served. Failure to file a timely appeal as prescribed herein shall constitute a waiver of the right to a hearing, and the notice shall become final. The City Council's determination and order shall be appealable to the County District Court by writ of certiorari. Such appeal shall be filed within twenty (20) days from the date of the Council's decision. The Council's order shall not be carried out until the time for filing the writ of certiorari has expired.

4. Abatement Remedies and Penalties. In the event that the violation is not abated as ordered and within the time specified, the City may abate such violation by any of the following means:

A. By undertaking such abatement and assessing the costs therefor against the property,

B. By issuance of a civil citation charging the owner or responsible party with a municipal infraction.

Abatement may include but is not limited to repair, removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, barricading or fencing, demolition of dangerous or abandoned structures or portions thereof, and elimination of nuisances. Abatement costs may include the cost of removing or eliminating the violation; the cost of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs; and other related administrative costs. Inoperable or obsolete vehicles which have been impounded may be sold in accordance with State law. If an inoperable or obsolete vehicle is not sold or if the proceeds of such sale or redemption are not sufficient to pay the costs of abatement, storage, and sale of said inoperable or obsolete vehicle, such cost or the balance of such cost may be assessed against the premises in the same manner as a property tax. Before the assessment of any charges for work done or caused to be done by the City, the owner of the property proposed to be assessed shall be provided notice and opportunity for hearing before the City Council. The notice shall set forth the amount proposed to be assessed, and include a statement of the time, place, and date of hearing. The court may order any one or more of the following:

- A. Place a judgment against the person and/or property of defendant for the costs of abatement.
  - B. Levy a civil penalty (fine) against the defendant of up to seven hundred fifty dollars (\$750.00) for the first offense and up to one thousand dollars (\$1,000.00) for repeat offenses.
  - C. Order abatement of the violation in any manner.
  - D. Assess costs of abatement against the premises.
5. Emergency Abatement Procedure. If an Enforcement Officer determines that a violation exists and constitutes an imminent, clear, and compelling danger to health, safety or welfare of persons or property, the Enforcement Officer is authorized to abate the violation or have it abated without prior notice and opportunity for hearing. The costs of such action may be assessed against the premises. However, prior to such assessment, the City shall give the property owner notice and the opportunity for a hearing before the City Council in accordance with subsection 4. An appeal shall not stay the effect of a notice or order under the emergency provisions of this section unless so ordered by the City Council.

*(Ch. 164 – Ord. 479 – Jan. 17 Supp.)*

[The next page is 635]

**CHAPTER 165**  
**ZONING REGULATIONS**

**CITY OF LAKE VIEW, IOWA  
ZONING ORDINANCE  
NO 336**

PREAMBLE

AN ORDINANCE TO REPEAL ALL ORDINANCES IN CONFLICT HERewith; AND ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF LAKE VIEW, IOWA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF.

WHEREAS, Chapter 414, 1997 Code of Iowa as amended, empowers the City of Lake View, to enact the Zoning Ordinance and to provide for its administration, enforcement and amendment, and

WHEREAS, the City Council deems it necessary for the purpose of promoting the health, safety, morals or general welfare of the City of Lake View, to enact such an Ordinance, and

WHEREAS, the City Council, pursuant to the provisions of Chapter 414, 1997 Code of Iowa, as amended, has appointed a Zoning Commission to recommend the boundaries of various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning and Zoning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a Comprehensive Plan designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light or air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements, and

WHEREAS, the Planning and Zoning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and



WHEREAS, the Planning and Zoning Commission has made a Preliminary Report and held public hearing thereon, and submitted its Final Report to the Council, and

WHEREAS, the City Council has given due public notice of hearings related to zoning districts, regulations and restrictions and has held such public hearings, and

WHEREAS, all requirements of Chapter 414, 1997 Code of Iowa, as amended, with regard to the preparation of the report of the Planning & Zoning Commission, and the subsequent action of the City Council have been met.

**NOW THEREFORE, BE IT ORDAINED BY THE  
CITY COUNCIL OF THE CITY OF LAKE VIEW, IOWA:**

**165.01 TITLE, PURPOSE, AND INTERPRETATION OF STANDARDS**

165.01.01: SHORT TITLE

This Ordinance shall be known as the Zoning Ordinance for the City of Lake View.

165.01.02: PURPOSE

The purpose of this ordinance is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of populations, to regulate the use of land, and to promote the health, safety, and general welfare of the City of Lake View, Iowa.

165.01.03: INTERPRETATION OF STANDARDS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or Ordinances, the provisions of this Ordinance shall control.

**165.02: DEFINITIONS**

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Person. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes plural, and the plural number includes the singular.

The word shall is mandatory; the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the words plot or parcel, and all other words or phrases used to denote an individual building site which complies with the minimum provisions of this Ordinance.

**Accessory Structure:**

A structure, greater than 64 square feet, subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to the use of the principal building or an accessory lakeshore storage building. Accessory buildings shall be completely enclosed with four walls, and have a minimum roof pitch of 3:12. Accessory structures larger than 150 square feet shall be constructed on a slab, have a foundation, or be permanently anchored to the ground. No "Quonset-type" buildings are permitted. Where an accessory building is attached to the main building in a substantial manner, as by wall or roof, such accessory building shall be considered part of the main building.

(Amended Ordinance No. 491 April. 2018)

**Administrator:**

The individual appointed by the City Council to administer and enforce the provisions to this ordinance.

**Agriculture:**

The use of land for agricultural purposes, including animal husbandry, dairying, farming, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, viticulture, and the necessary accessory uses for packing, treating or storing the produce; however, the operation of the accessory uses shall be subordinate to that of the normal agriculture activities.

Alley:

A public way other than a street, twenty-six feet or less in width, affording secondary means of access to abutting property. An alley shall not be considered a public thoroughfare.

Billboard:

A off-premise, free standing message center greater than 64 square feet.

Building:

Any structure having a roof supported by walls or by columns intended for enclosure, shelter or housing of persons, animals or chattel.

Building, Height of:

The vertical distance from the average finished ground grade as determined from the front to the rear at the building line to the highest projection of the roofline excluding chimneys.

Cabin:

A smaller residential structure, intended for seasonal or permanent occupancy, which does not meet the minimum residential standards as defined in Section 165,07,02.A.1.

Centerline, Public Thoroughfare:

A line running parallel with the thoroughfare right-of-way which is half the distance between the extreme edges of the official right-of-way width.

Commercial Use:

A use operated for profits or compensation.

Conditional Permit:

A permit issued in view of specified conditions, limitations or restrictions, and which is subject to review or cancellation.

Deck:

An elevated structure made of cement, asphalt, wood, or other building materials that exceeds the height limitations of a patio. This is considered part of the principle dwelling. A deck therefore will be required to fall within all setback requirements and will require a building permit.

Driveway:

A private access point to a public roadway that has a surface of crushed rock or better.

Dwelling:

A building containing one or more dwelling units which is designed or used exclusively for residential purposes but not including a tent, cabin, trailer or travel trailer.

Dwelling Unit:

Dwelling Unit: One or more rooms in a building used for occupancy as a home or residence for living or sleeping purposes and in which the cooking and sanitary facilities are designed for the use of one family only and the maximum occupancy of any dwelling unit shall not exceed (1) one family; or (2) the number which meets the space & density requirement that for the first occupant 150 square feet of floor space is required and at least 100 square feet of floor space is required for each additional occupant.

(Ordinance #445, November, 2011)

Dwelling, One-Family:

A building designed for and used exclusively for residential purposes by one family and containing one dwelling unit.

Dwelling, Multiple:

A building designed for and used for occupancy by two or more families living independently of each other and containing two or more dwelling units.

Family:

A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (a) Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship; (b) Three unrelated people; or (c) Two unrelated people and any children related to either of them;

(Ordinance #445, November, 2011)

Fence:

An artificially constructed barrier of any material or combination of materials which is 18" or taller erected to enclose or screen areas of land.

Garage, Private:

An accessory building or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles owned or operated by the occupants of the main building. A private garage of less than three car capacity may be rented for the private vehicles of persons not residents on the premises.

Home Occupation:

Any occupation or profession conducted solely by resident occupants, and not more than one employee, in their place of abode, involving primarily service and not the sale of commodities upon the premises; provided further that not more than one-quarter the area of not more than one floor level of the building may be used in pursuit of the occupation, and in connection therewith there is used no sign other than one name plate affixed to the outer wall, of not more than two square feet in area that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

Interior Lot:

Any lot not immediately adjacent to a natural body of water.

Keyholing:

Keyholing or funneling is the use of a water front property (whether riparian or not) as a common open space giving waterfront access to a larger development located away from the waterfront.

Land Disturbing Activity:

Any earth movements, including but not limited to grading, topsoil removal, mineral extraction, road or bank cutting, waterway construction or enlargement, excavation, filling or stripping of vegetation. Excluded from this definition are excavation, filling or a combination thereof involving less than three (3) cubic yards and tilling, vegetation and/or tree cover removal from an area less than one hundred (100) square feet.

Lakeshore Accessory Storage Building:

A structure of any dimension to be used for the storage of lake equipment, such as oars, life preservers, fishing tackle, etc.

Lot:

A parcel of land or two or more contiguous parcels used as a unit under the provisions of this Ordinance, and having its principal frontage on a dedicated street or on a lakeshore and consisting of any one of the following:

- A. A single lot of record.
- B. A combination of complete lots of record, of complete lots of record and portions of lots of record or of portions of lots of record.

- C. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this Ordinance.

Lot Lines:

- A. Front. The front property line of a lot other than a lakeshore lot shall be determined as follows:
- Corner Lot. The front property line of a corner lot shall be the shorter of the two lines adjacent to the streets as platted, subdivided or laid out. Where the lines are equal, the front line shall be that line which is obviously the front by reason of the prevailing custom of the other buildings in the block. If such front is not evident, then either may be considered the front of the lot, but not both. In any event, structures located on corner lots must meet front yard setback from both lot line abutting the streets.
- Interior Lot. The front property line of an interior lot shall be the line bounding the street frontage.
- Through Lot. The front property line of a through lot shall be that line which is obviously the front by reason of the prevailing custom of the other buildings in the block. Where such front property line is not obviously evident, the Board of Adjustment shall determine the front property line.
- B. Rear. The rear property line of a lot is that lot line opposite the front property line.
- C. Side. The side property lines of a lot are those lot lines connecting the front and rear property lines of a lot.

Lot Measurements:

- A. Area. The gross area exclusive of streets or other public rights-of-way within the boundary lines of a lot.
- B. Depth. The mean horizontal distance between the front and rear, lot lines as measured perpendicular to the midpoint of the mean front lot line.

- C. Width. The horizontal distance between the side lot lines as measured perpendicular to the line comprising the lot depth at its point of intersection with the required minimum front setback.

Lot Types:

- A. Corner Lot. A lot located at the intersection of two or more streets designed to accommodate licensed motor vehicular traffic and having the street right-of-way abut the front on one or more side lines of the lot.
- B. Double Frontage Lot. A lot other than a corner lot with frontage on more than one street or public thoroughfare which does not intersect one another.
- C. Interior Lot. A lot other than a corner lot having frontage on but one street or public thoroughfare.
- D. Key Lot. An interior lot, one side of which is contiguous to the rear line of a corner lot.
- E. Lakeshore Lot. A lot having one or more sides that abut the high water mark at a State owned lake, or abuts public lands adjacent to a State owned lake.

Mobile Home:

A vehicular portable home designed and built for longterm residential occupancy as defined in Chapter 146, Lake View Code of Ordinances.

Mobile Home Park:

Any lot, tract or parcel of land licensed and used or offered for use in whole or in part, with or without charge, for the parking of occupied mobile homes and travel trailers.

Parking Area, Public:

An open area which is used for the temporary parking of more than four automobiles and is available for public use whether free or for compensation.

Parking Space, Automobile:

An area other than a street or alley reserved for the parking of an automobile, such space having a dimension not less than ten feet by twenty feet, plus such additional area as is necessary to afford adequate ingress-egress.

Patio:

A structure made of cement, asphalt, or wood set at ground level but in no instance exceeding 18" in height, including railings. Any portion of this structure which exceeds 18" in height shall be subject to setback requirements.

Principal building:

The structure which houses the main use on the property.

Public Access:

A tract of land of any dimension adjacent to and fronting on a body of water that has been dedicated to the use of the general public.



Public Lake:

All lakes bordering the City of Lake View, Iowa under the ownership and control of the State of Iowa or any subdivision thereof.

Restricted Businesses

Any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of Lake View, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specific anatomical areas; and adult theaters. Restricted Business may operate only in the Commercial district upon the granting of a Special Exception by the Board of Adjustment.

Setback:

That point to which structures must be located to conform with requirements for front,

side, and rear yards. This point shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and decks.

Story: That portion of a building, other than a basement not having over 50 percent of its height below grade, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it then the space between the floor and the ceiling next above it.

(Amended Ordinance No. 390 Sept. 2004)

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level. A half-story containing independent living quarters shall be counted as a full story.

(Amended Ordinance No. 390 Sept. 2004)

Structure

Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

Variance:

A modification of the specific regulations of this Ordinance granted by resolution of the Board of Adjustment in accordance with the terms of this Ordinance for the purpose of assuring that no property, because of special circumstances applicable to it shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zone.

Yard:

An open space, unoccupied and unobstructed from the ground upward, except for landscaping or as otherwise provided in this Ordinance.

**165.03: OFFICIAL ZONING MAP**

The City is hereby divided into districts as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor, and bearing the seal of the town under the following words: "This is to certify that this is the Official Zoning Map referred to in Ordinance Number 335 of the City of Lake View, Iowa adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

If in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map as follows: "On (date), by official action of the City Council, the following changes(s) were made in the Official Zoning Map: (brief description), which entry shall be signed by the Mayor and attested by the City Clerk. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map, shall become effective until after such change and entry has been made on said map.

**165.04: DISTRICTS**

For the purpose of this Ordinance, the City of Lake View is hereby divided into use districts as follows:

- R-2 Single and Two-family Residential District
- R-3 Multi-Family Residential District
- L-R Lakeshore Residential District
- PA Provost Area Residential
- MH Mobile Home District
- PA Parks and Open Spaces
- C Commercial District
- I Industrial District
- A Agricultural District

**165.05: BOUNDARIES**

Where uncertainty exists as to the boundaries of any of the aforesaid districts, the district boundaries are either lot lines or the center lines of streets and alleys, unless otherwise shown, and where the districts designated are bounded

approximately by street, alley or lot lines and are without dimensions; otherwise, the lot lines of streets and alleys shall be construed to be the boundary of the district.

**165.06: GENERAL REGULATIONS****165.06.01: CONFORMANCE REQUIRED**

Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used which does not comply with all of the district regulations established by this Ordinance for the district in which the building or land is located.

**165.06.02: CONTINUING EXISTING USES**

The lawful use of a building existing at the time of the enactment of this Ordinance may be continued even though such use may not conform with the regulations of this Ordinance for the district in which it is located. Any use in existence at the adoption hereof which was not an authorized nonconforming use under previous Zoning Ordinances shall not be authorized to continue as a nonconforming use pursuant to this Ordinance, or amendments thereto.

**165.06.03: NONCONFORMANCE**

Within the districts established by this Ordinance or by amendments which may later be adopted, there exist lots, structures, buildings and uses which were lawful before this ordinance was effective or amended, but which would be prohibited, regulated or restricted under the provisions of this Ordinance or future amendment, the intent of this Ordinance is to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended in such a way as increases their nonconformity, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

**165.06.04: NONCONFORMING USES**

No building or land devoted to a use not permitted by this Ordinance in which such building or land is located, except when required by law, shall be enlarged, extended, constructed, reconstructed, substituted or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building, structure or premises is located, except as follows:

**A. DISCONTINUANCE**

In the event that a nonconforming use of any building, structure or land is discontinued for period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which It is located. The use of land upon which no improvement or structure is erected or constructed which does not conform to the provisions of this Ordinance and the use of land upon which no building is erected or constructed which becomes nonconforming by reason of a subsequent change in this Ordinance, shall be discontinued within one year from the date of the change.

B. REPLACING DAMAGED BUILDINGS

Any nonconforming building or structure damaged more than fifty per cent of its then replacement value as determined by the building inspector, exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot or act of God, shall not be restored or reconstructed and used as before such happening; but if less than fifty per cent is damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it be done within six months of such happening.

165.06.05: STREET FRONTAGE REQUIRED

No lot except a lakeshore lot shall contain any building used in whole or in part for residence purposes unless such lot abuts at least forty feet on at least one street or right-of-way, or unless it has an exclusive unobstructed private easement of access or right-of-way at least twenty feet wide to a street; and there shall be not more than one single-family dwelling for such frontage or easement, except that a common easement of access at least fifty feet wide shall be provided for two or more such single-family dwellings or for one or more two-family or multiple dwellings.

165.06.06: ACCESSORY BUILDINGS AND GARAGES

No accessory building or structure shall be erected in a required yard or court, except as provided for hereinafter:

- A. An accessory building, excepting one housing animals or fowl, may be erected within the permissible building area of a lot, provided said accessory building complies with all yard requirements for the principal building. An accessory building may be connected to the principal building by breezeway or similar covered walkway, but if so connected shall be considered as part of the principal building. Spaces used for home occupations and garages, when constructed as parts of the structure of a principal building, will not be considered as accessory buildings, and shall conform to the requirements for the principal building.
- B. Accessory buildings shall be no closer to the front lot line than the front line of the principal building.

- C. Accessory buildings (including garages) shall not exceed one story or sixteen feet in height, except accessory buildings which are at least two hundred feet (200') from any existing structures may be constructed to a maximum height of twenty one feet  
(Amended Ordinance No. 486 Oct. 2017)
- D. Accessory buildings and structures which are constructed above the normal ground surface in any yard area, shall not occupy more than thirty per cent of the yard area in which they are located; this regulation shall not be interpreted to the construction of a two car garage which exceed six hundred (600) square feet gross area, provided all other provisions of this Ordinance are complied with.
- E. Garages alone may be permitted on a vacant residential lot provided that the lot is owned and occupied as a principle structure by the same owner of the adjacent property or a property within 200' of the vacant lot. Garages alone may be built on properties across a public right-of-way so long as the property is within 200' of a property owned and occupied as a principle structure by the same owner.
- F. Any structure which is less than 64 square feet must be set at least four feet off of all property lines.
- G. TV and radio antennas are exempt from height requirements. All antennas are to be placed as close as practical to the principle structure.
- H. In all residential districts, detached garages, and accessory buildings shall be residential in character, with similar architectural features as the principal structure including roof slope and overhangs. Exterior metal siding on houses, accessory buildings, or any other structure larger than 144 square feet shall be designed and manufactured for use as residential siding in the area and have no exposed fasteners. Corrugated sheet metal shall not be used.

(Amended Ordinance No. 486 Oct. 2017)

#### 165.06.07: FRONT YARD

In any R-District there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided however that where lots comprising thirty per cent or more of the frontage within 200 feet of either side lot line are developed with buildings at a greater or lesser setback, the front yard minimum requirement shall be the average of these building setbacks. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots, shall not be counted.



165.06.08: SIDE OR REAR YARD ADJACENT TO ALLEY

If a side or rear yard is adjacent to a public alley, a setback of ten foot (10') is required. This requirement does not apply to properties in the Commercial District.

165.06.09 FENCES, WALLS AND VISION CLEARANCE

- A. Fences shall be constructed of materials commonly used for landscaping or fencing, such as masonry block, brick, field stone, limestone, concrete, lumber, vinyl, or chain link, but shall not include corrugated sheetmetal, chicken wire, livestock panels, salvage material, or be electrified. Vertical board fences shall have a maximum edge to edge spacing between the boards of one inch less than the width of the widest board. Barbed wire may be used in Commercial and Industrial zones only and only on the top two feet of a fence that is at least six feet tall.
- B. Chainlink fences shall have a maximum opening between the links of 2 3/8 inches as measured diagonally. Support posts shall be firmly implanted in the ground and shall be spaced not more than ten feet apart. Chainlink fencing shall be attached to the top rail by fence ties at intervals of not more than three feet apart. Fencing shall be attached to the support posts and top rail by using standard chainlink fence hardware.
- C. Wrought iron fencing shall have a maximum spacing of four inches between the vertical rails and a minimum spacing of five feet between the horizontal rails.
- D. Decorative fencing may be used in conjunction with landscaping purposes. Such fencing shall not exceed four (4) feet above grade level and may not be longer than ten feet in any direction. Corner fences no longer than ten feet on each side are permitted. Decorative fences shall comply with all other fence regulations. Any decorative fencing other than a split-rail or picket fence made of wrought iron, wood, or vinyl in the front yard shall require approval of the Board of Adjustment.  
(Amended Ordinance No. 399 Dec. 2005)
- E. The finished side of any fence shall face out from the enclosed lot.
- F. In any District, fences and walls not exceeding eight (8) feet in height are permitted within the limits of side, rear and front yards, except that no fence or wall shall be permitted within the Front Yards of the LR District (except earth retaining walls). Fences may not extend beyond the front line of the principal dwelling in

the LR District. Fences constructed in a front yard shall be no more than 30 percent solid. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment.

- G. Disputes between two adjacent property owners concerning plantings, trees, bushes or hedges obstructing views, sunlight or air shall be considered a civil matter between parties and shall be resolved in a court of law as a civil proceeding.
- H. Open patios including railings not exceeding 1 1/2 feet above grade may be permitted.
- I. Fences shall be erected at least two feet off the property line.
- J. Common-fences may be placed on the property line if agreed to by all affected property owners.
- K. On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half feet and ten feet above the centerline grades of the area described as follows: That area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five feet from the point of intersection of said right-of-way lines. This regulation shall not apply to the C-District.
- L. Persons wishing to erect a fence must obtain a permit prior to construction. Persons wishing to erect a decorative fence which is anticipated to be built within ten feet of any of their property lines must obtain a decorative fence permit. Fence permits and decorative fence permits are issued and enforced in the same manner as a building permit. Application fees for fence permits and decorative fence permits shall be established by resolution of the City Council.  
(Amended Ordinance No. 399 Dec. 2005)
- M. Every fence shall be remain structurally sound and in a good state of repair or shall be removed.
- N. Fences erected or maintained in violation of Section 165.06.09 shall be repaired or removed at the expense of the property owner.  
(Amended Ordinance No. 377 Nov. 2003)

165.06.10: SIGNS:

- A. Off-premises signs are not permitted. Billboard are not permitted. Real estate, construction and political signs not to exceed sixty four square feet are permitted.
- B. No sign may be lighted in a manner which impairs with vision of the driver of any motor vehicle.

- C. No sign may obstruct the view of any highway so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal or device.
- E. Signs shall not encroach or extend over public right-of-way.
- F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- G. No advertisement shall be posted or maintained on rocks, fences, trees or other perennial plants, or on poles maintained by public utilities.

165.06.11: REQUIRED YARD CANNOT BE REDUCED

No lot shall be reduced in size so as to make the width or total area of the lot or any yard, or any other open space, less than the minimum required by this Ordinance. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space required under this Ordinance for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this Ordinance; however, no off-street parking shall be permitted in the front and side yards in a Residential District, except for motor vehicles and trucks (one ton and less) on driveways.

165.06.12: STRUCTURES PERMITTED ABOVE HEIGHT LIMIT

The building height limitations of this Ordinance may be modified as follows:

- A. Chimney, cooling towers, fire towers, grain elevators, monuments, windmills, penthouses, stacks, stage towers or scenery lofts, tanks, silos, water towers, ornamental towers and spires, commercial radio or television towers or necessary mechanical appurtenances may be erected to a height approved by the Board of Adjustment.
- B. Public, semi-public, or public service buildings, hospitals, sanatoriums or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot in addition to the minimum yard requirements, for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.

165.06.013: WATER RUN-OFF

Persons undertaking new construction, alteration to existing structures, or other manipulation of the land grade may not cause additional water run-off to be

placed on neighboring properties. If it is apparent that more water run-off will be created by the new or altered construction, the City may require additional measures be taken to control the additional run-off. However, issues pertaining to water run-off remain a civil matter under Article I of the Iowa Constitution and the Code of Iowa and the City of Lake View assumes no responsibility or liability for damages caused by water run-off.

#### 165.06.14: KEYHOLING

With respect to any parcel of land contiguous to the lake and situated in a residentially-zoned district (LR, R-1 or R-2), said parcel of land may be dedicated for the purpose of providing access to the lake (whether by easement, license, dedication, share ownership or declaration to horizontal property regime), so long as the property dedicated for lake access is at no point less than twenty five feet (25') wide. Further, no permanent or temporary structures are allowed, including tents, grills, picnic tables, etc. No parking will be allowed on the land dedicated as the lake access point. A 5' wide concrete sidewalk must be installed in the center of the lot dedicated as the lake access point. The lake access point must meet all applicable standards of the Americans with Disabilities Act.

#### 165.06.15 LOCATING UNDERGROUND INSTALLATIONS

All underground installations on public and private property shall have the ability to be located. Tracer wires are required for PVC water service lines, all building sanitary sewers, all drainage tiles, and all underground heating or cooling installations including geothermal wells. It is the property owner's responsibility to locate all private underground installations on their property.

(Amended Ordinance No. 456 Nov. 2012)

**165.07 R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT****165.07.01: REGULATIONS**

The R-2 Single-Family Residential District is one of single and two-family homes designed to maintain, protect and preserve a character of development with not more than two-family dwellings and customary accessory buildings on one lot.

**165.07.02: USE REGULATIONS**

A building or premises shall be used for the following purpose:

**A. PRINCIPAL PERMITTED USES**

1. A single-family dwelling on each lot or building site. Minimum residential dwelling standards are as follows:
  - a. The minimum width of a dwelling structure or principle building shall be twenty (20) feet at the exterior dimension of three or more exterior walls, exclusive of attached garages, porches, or other accessory structures.
  - b. All dwelling units shall be placed on a permanent frost-free foundation.
  - c. All dwelling units shall provide for a minimum of seven hundred (700) square feet of floor space.
  - d. All dwelling units shall have a roof pitch of 3:12 or greater. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 U.S.C. Sec. 5403.
2. Two-family dwellings.

**B. ACCESSORY USES.**

1. Normal accessory buildings and structures for a dwelling such as private garages, barbecue pits, gardens, playground equipment, tennis courts, and similar structures

(Amended Ordinance No. 491 April, 2018)

2. Customary Home Occupations: Provided that such occupations shall be conducted solely by resident occupants in their place of abode, and not more than one employee, involving primarily service and not the sale of goods or commodities upon the premises and provided that not more than one-fourth (1/4) the area of one (1) floor shall be used for such purpose.
3. Pickup campers, travel trailers, motor homes, motor boats, and boat lifts may be stored for more than 72 hours, provided, however, that the owner or tenant of the property is in fact the actual owner of the unit, and further provided that said units may not be occupied unless a certificate of occupancy is obtained.

Certificates of occupancy may be issued such that one camping unit per address may be occupied for not more than three days during the following weekends only: Memorial Day, Fourth of July, Water Carnival, and Labor Day. Occupied units may not be parked on the public right-of-way and must be parked on private property inside the sidewalk or at least six feet from the street surface if the property has no sidewalk. The property owner must obtain and display a permit to occupy the camping unit.

A property owner who violates Section 165.07.02.B.3 will be subject to removal of the occupied camping unit and a civil penalty of \$50.00 per occurrence.

(Amended Ordinance No. 407 Oct. 2006)

#### 165.07.03: SPECIAL EXCEPTIONS:

Certain uses may be permitted in the R2 district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

1. Nursery schools.
2. Public or private utility substations, relay stations, etc.
3. Churches or accessory facilities (on or off site).

4. Public or private swimming pools with a depth exceeding two feet.
5. Public or private schools.
6. Golf courses, but not miniature courses or driving ranges.

165.07.04: MAXIMUM HEIGHT REGULATION

No principal building shall exceed thirty-five feet in height. Communications towers for non-commercial use are exempt from this height regulation.

165.07.05: BULK REGULATIONS

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and decks.

Minimum Principal Use	Lot Area	Lot Frontage	Front Yard Depths	<u>Side Yard Width</u>		
				Least	Width on any side	Sum of Side Rear Yard
<u>Yards Depths</u>						
One Story Single- Family Dwelling	sq. ft	7,500 50 ft.	12 ft.	4 ft.	8 ft.	10 ft.
Two Story Single- Family Dwelling	sq. ft	7,500 50 ft.	12 ft.	6 ft.	12 ft.	10 ft.

(Amended Ordinance No. 425 June. 2010)

All structures must be at least ten feet (10') from a public alley.

All principal structures, even those owned by the same owner, must maintain a separation distance of eight feet.

One and one-half story structures require the side yard setback of a single story structure.

Two and one-half story structures require the side yard setback of a two story structure.

(Amended Ordinance No. 390 Sept. 2004)

165.07.06: OPEN SPACE REOUIREMENTS

All buildings and land use in the R-2 District shall comply with the following: On each lot there shall be provided an open space equal to at least twenty-five per cent of the total lot area; said space shall be unencumbered with any structure and shall be landscaped and well maintained with grass, trees and shrubbery.



165.07.07: OFF-STREET PARKING REGULATION:

- A. Dwellings: two (2) parking spaces in the lot for each living unit in the building.
- B. Churches: one (1) parking space on the lot for each 5 seats in the main auditorium.

**165.08 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT**

**165.08.01: REGULATIONS** The R-3 Multi-Family Residential District is one of a limited number of family residences and other compatible uses designed to maintain, protect and preserve a character of development in which a minimum of 2,500 square feet of lot area must be provided for each dwelling unit.

**165.08.02: USE REGULATIONS** Buildings shall be used only for the following purposes:

A. **PRINCIPAL PERMITTED USES.**

1. Any use permitted in the R-2 District providing such use shall comply with the minimum requirements of the R-3 District.
2. Multi-family dwellings; providing however, individual buildings shall contain not more than twelve (12) dwelling units, and further, that a minimum of 2,500 sq. ft. of lot area be provided for each dwelling unit and its customary accessory buildings.
3. The renting of residential property such as a room, a group of rooms or an entire residence.

B. **ACCESSORY USES.**

1. Normal accessory buildings and structures for a dwelling such as private garages, barbecue pits, gardens, playground equipment, tennis courts, and similar structures
2. Playground areas and equipment accessory to multi-family dwellings.
3. Customary Home Occupations: Provided that such occupations shall be conducted solely by resident occupants in their place of abode, and not more than one employee, involving primarily service and not the sale of goods or commodities upon the premises and provided that not more than one-fourth (1/4) the area of one (1) floor shall be used for such purpose.

4. Pickup campers, travel trailers, motor homes, motor boats, and boat lifts may be stored for more than 72 hours, provided, however, that the owner or tenant of the property is in fact the actual owner of the unit, and further provided that said units may not be occupied unless a certificate of occupancy is obtained.

Certificates of occupancy may be issued such that one camping unit per address may be occupied for not more than three days during the following weekends only: Memorial Day, Fourth of July, Water Carnival, and Labor Day. Occupied units may not be parked on the public right-of-way and must be parked on private property inside the sidewalk or at least six feet from the street surface if the property has no sidewalk. The property owner must obtain and display a permit to occupy the camping unit.

A property owner who violates Section 165.08.02.B.4 will be subject to removal of the occupied camping unit and a civil penalty of \$50.00 per occurrence.

(Amended Ordinance No. 407 Oct. 2006)

#### 165.08.03: SPECIAL EXCEPTIONS:

Certain uses may be permitted in the R-3 district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

1. Nursery schools.
2. Public or private utility substations, relay stations, etc.
3. Churches or accessory facilities (on or off site)
4. Public or private schools.
5. Golf courses, but not miniature courses or driving ranges.
6. Public or private swimming pools with a depth exceeding two feet.

165.08.04: LOT AREA, FRONTAGE AND YARD REOUIREMENTS

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and decks.

				<u>Side Yard Width</u>		
Minimum				Least		
Principal Use	Lot Area	Lot Frontage	Front Yard Depths	Width on any side	Sum of Side	Rear Yard
<u>Yards Depths</u>						
One Story Single-Family Dwelling	5,000 sq. ft	50 ft.	12 ft.	4 ft.	8 ft.	10 ft.
Two Story** Single-Family Dwelling	5,000 sq. ft	50 ft.	12 ft.	6 ft.	12 ft.	10 ft.
** add two feet to each side yard for a third story.						
(Amended Ordinance No. 425 June. 2010)						
Multi-Family Dwellings	10,000 sq. ft.	80 ft.	30 ft.	10 ft.	20 ft.	35 ft.

All structures must be at least ten feet (10') from a public alley.

All principal structures, even those owned by the same owner, must maintain a separation distance of eight feet.

One and one-half story structures require the side yard setback of a single story structure.

Two and one-half story structures require the side yard setback of a two story structure. (Amended Ordinance No. 390 Sept. 2004)

165.08.05: MAXIMUM HEIGHT REGULATION

No principal building shall exceed thirty-five feet in height. Communications towers for non-commercial use are exempt from this height regulation.

165.08.06: OPEN SPACE REOUIREMENTS

All buildings and land use in the R-3 District shall comply with the following: On each lot there shall be provided an open space equal to at least twenty-five

per cent of the total lot area; said space shall be unencumbered with any structure and shall be landscaped and well maintained with grass, trees and shrubbery.

165.08.07: OFF-STREET PARKING REGULATION:

- A. Dwellings: two (2) parking spaces in the lot for each living unit in the building.
- B. Churches: one (1) parking space on the lot for each 5 seats in the main auditorium.

**165.08A R-4 HIGH DENSITY RESIDENTIAL DISTRICT**

165.08A.01: REGULATIONS The intent of the R-4 High Density Residential District is to provide for specific high density apartment, condominium, townhouse and other compatible uses. These high density residential developments would be encouraged to locate where public utilities and services are available and to encourage an affordable and dense living environment through the provision of many dwelling units with low land costs per unit due to the density of units permitted.

165.08A.02: USE REGULATIONS Buildings shall be used only for the following purposes:

A. PRINCIPAL PERMITTED USES.

4. Within the (R-4) High Density Residential District, unless otherwise provided, only the following uses and structures shall be permitted by right.

Residential Uses

Assisted Living Facilities

Apartments

Condominium Residential

Townhouse Residential

Multiple Family Residential

Nursing or Convalescent Home

Residential Care Services

5. Civic Uses

Governmental/Public Services

Local Utility Services

Park and Recreation Services

6. The renting of residential property such as a room, a group of rooms or an entire residence.

B. ACCESSORY USES.

5. Normal accessory buildings and structures for a dwelling such as private garages, barbecue pits, gardens, playground equipment, tennis courts, etc. Accessory buildings shall have a permanent perimeter foundation, be completely enclosed with four walls, and have a minimum roof pitch of 3:12. No "Quonset-type" building are permitted.
6. Playground areas and equipment accessory to multi-family dwellings.
7. Customary Home Occupations: Provided that such occupations shall be conducted solely by resident occupants in their place of abode, and not more than one employee, involving primarily service and not the sale of goods or commodities upon the premises and provided that not more than one-fourth (1/4) the area of one (1) floor shall be used for such purpose.

165.08A.03: SPECIAL EXCEPTIONS:

Certain uses may be permitted in the R-4 district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

7. Nursery schools.
8. Public or private utility substations, relay stations, etc.
9. Churches or accessory facilities (on or off site)
10. Public or private schools.
11. Golf courses, but not miniature courses or driving ranges.
12. Public or private swimming pools with a depth exceeding two feet.
13. Daycare Centers

165.08A.04: LOT AREA, FRONTAGE AND YARD REQUIREMENTS

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and decks.

Lot Area - 10,000 square feet – minimum lot area for up to 3  
dwelling units.  
+ 1,000 sq. ft. per each dwelling unit in excess of 3



Lot Width - 100 feet - minimum lot width, except at entry points  
off cul-de-sacs.

Front Yard - 30 feet - minimum required setback  
+ 5 feet for each 10 feet of height over 35 feet  
30 feet (0-35 feet height)  
35 feet (35-45 feet height)  
40 feet (45-55 feet height)  
45 feet (55-60 feet height)

Side Yard - 15 feet - minimum required setback  
+ 2 feet for each 10 feet of height over 35 feet  
15 feet (0-35 feet height)  
17 feet (35-45 feet height)  
19 feet (45-55 feet height)  
21 feet (55-60 feet height)

Rear Yard - 35 feet - minimum required setback  
+ 5 feet for each 10 feet of height over 35 feet  
35 feet (0-35 feet height)  
40 feet (35-45 feet height)  
45 feet (45-55 feet height)  
50 feet (55-60 feet height)

#### 165A.08.05: MINIMUM ROOF PITCH

All structures shall have a roof pitch of 3:12 or greater.

#### 165A.08.06: MAXIMUM HEIGHT REGULATION

No principal building shall exceed sixty (60) feet in height. Communications towers for non-commercial use are exempt from this height regulation.

#### 165A.08.07: OPEN SPACE REQUIREMENTS

All buildings and land use in the R-4 District shall comply with the following:  
On each lot there shall be provided an open space equal to at least twenty-five per cent of the total lot area; said space shall be unencumbered with any structure, deck, driveway or private parking. Open space shall include landscaped areas, green spaces, patios, sidewalks and walkways.

#### 165A.08.08: OFF-STREET PARKING REGULATION:

Dwellings: two (2) parking spaces in the lot for each living unit in the building.

**165.09 L-R LAKESHORE RESIDENTIAL DISTRICT****165.09.01: REGULATIONS**

The L-R Lakeshore Residential District consists of property for residential use having lake frontage. Because of the uniqueness of this water-abutting district, in any instance in which any regulation of the L-R District conflicts with other provisions of this Ordinance, the L-R District regulations shall prevail.

**165.09.02: USE REGULATIONS**

A building or premises shall be used only for the following purposes:

**A. PRINCIPAL PERMITTED USES**

1. Any principal permitted use allow in the R-2 district.
2. The renting of residential property such as a room, a group of rooms or an entire residence.
3. Multi-family structures are permitted within only the area defined as Lot 16, Friedrichsen's Addition.

**B. ACCESSORY USES**

1. Any accessory buildings permitted in the R-2 District except no accessory building shall be used for residential purposes, or temporary living quarters to house a person and/or persons for overnight sleeping accommodations.
8. Lakeshore lots are not to be used for commercial access purpose.
9. Pickup campers, travel trailers, motor homes, motor boats, and boat lifts may be stored for more than 72 hours, provided, however, that the owner or tenant of the property is in fact the actual owner of the unit, and further provided that said units may not be occupied unless a certificate of occupancy is obtained.

Certificates of occupancy may be issued such that one camping unit per address may be occupied for not more than three days during the following

weekends only: Memorial Day, Fourth of July, Water Carnival, and Labor Day. Occupied units may not be parked on the public right-of-way and must be parked on private property inside the sidewalk or at least six feet from the street surface if the property has no sidewalk. The property owner must obtain and display a permit to occupy the camping unit.

A property owner who violates Section 165.09.02.B.3 will be subject to removal of the occupied camping unit and a civil penalty of \$50.00 per occurrence.

(Amended Ordinance No. 407 Oct. 2006)

165.09.03: SPECIAL EXCEPTIONS:

Certain uses may be permitted in the L-R district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

1. Public or private utility substations, relay stations, etc.
2. Golf courses, but not miniature courses or driving ranges.

165.09.04: MAXIMUM HEIGHT REGULATION

No principal building shall exceed thirty-five feet in height. Communications towers for non-commercial use are exempt from this height regulation.

165.09.05: BULK REQUIREMENTS

- A. The front of the property shall be toward the lake. The front property line shall be the "ordinary high water mark" on the lake side of the lot, or the property line which abuts a public lake access area.
- B. The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and decks.

Minimum Principal Use	Lot Area	Lot Frontage	Front Yard Depths	<u>Side Yard Width</u> Least		Rear Yard
				Width on any side	Sum of Side	
<u>Yards</u>						
<u>Depths</u>						
Single Story Dwellings	3,000 sq. ft	50 ft.	12 ft.	4 ft.	8 ft.	10 ft.
Two Story Dwellings	3,000 sq. ft	50 ft.	12 ft.	6 ft.	12 ft.	
10 ft.						

All principal structures, even those owned by the same owner, must maintain a separation distance of eight feet.

\*\* Multi-family housing must meet all requirements as found in the R-3 zone.

\*\*\* The front setback in the Lakewood Addition shall be the smallest setback of the two neighboring structures on each side of the construction project. (i.e. structures can be constructed so that they do not extend closer to the lake than their two neighbors on each side.)

One and one-half story structures require the side yard setback of a single story structure.

Two and one-half story structures require the side yard setback of a two story structure.

(Amended Ordinance No. 390 Sept. 2004)

#### 165.09.06: NON-CONFORMING STRUCTURES IN THE L-R DISTRICT

Residential structures which are more than 50% destroyed via any fire or other act of God and which do not meet the requirements of this Code may be rebuilt on the location of the original foundation. This provision does not apply to intentional demolition of a non-conforming structure.

Due to the uniqueness of the area and the great number of smaller cabins, structures within the Lakewood Addition may be reconstructed on their existing foundation or at a setback equivalent to the location of the old structure if no portion of the lot on which the structure is located exceeds thirty feet (30') in width.

#### 165.09.07: OPEN SPACE REOUIREMENTS

All buildings and land use in the L-R District shall comply with the following: On each lot there shall be provided an open space equal to at least twenty-five per cent of the total lot area; said space shall be unencumbered with any structure and shall be landscaped and well maintained with grass, trees and shrubbery.

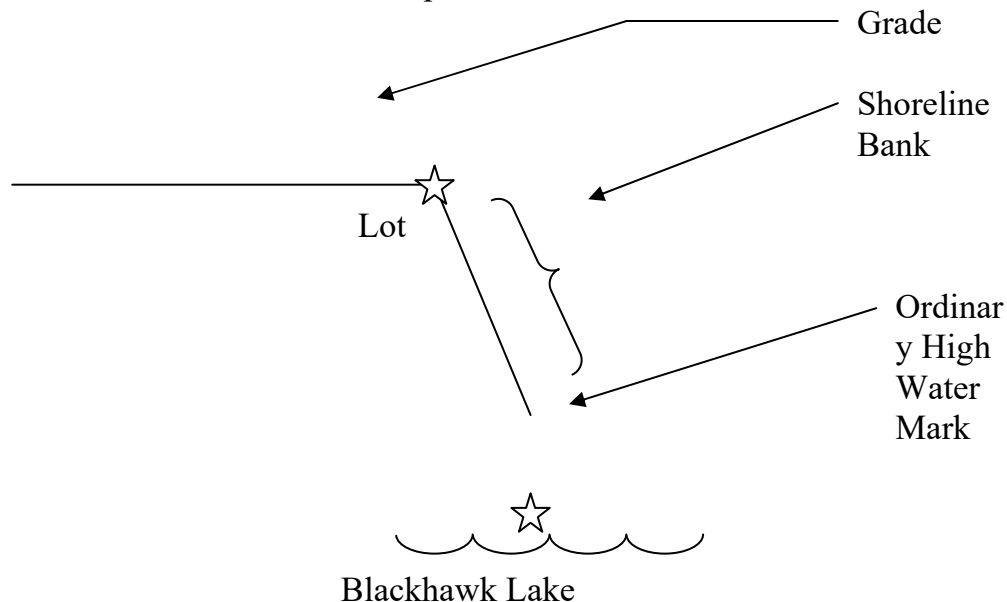
165.09.08: REGULATIONS PROHIBITING CONSTRUCTION OF LAKESHORE ACCESSORY STORAGE BUILDINGS AND OTHER STRUCTURES.

- A. The construction of any structure on lakeshore banks, except stairways and landing providing access to lake docks, is prohibited.
- B. Stairways permitting access to lake docks may be constructed providing the stairways do not exceed four (4') feet in width and further providing the most direct route from the origin of the bank to the dock is made. Only one stairway or access to the lake-dock, per dwelling, is permitted.
- C. Rest landings constructed in conjunction with stairways are permitted and are also limited in width to four (4) feet.
- D. Stairways and landings may be constructed. Stairways and landings that are excavated into the bank shall provide for adequate drainage or plant growth to prevent erosion from occurring on either side.
- E. Permits for the construction of stairways and landings may be applied for through City offices in the same manner as other building permits and the same fee schedules shall apply.
  - 1. All permit applications for dock steps shall be accompanied by a plan indicating appropriate erosion control methods which will be taken to control erosion of the area under and at the sides of steps.
  - 2. A permit shall be required for the repair of any structure now existing on lakeshore banks including but not limited to steps, buildings, patios, decks, retaining walls etc. The permit application shall be filed with the Zoning Administrator and must include a plan indicating the nature and extent of the repair work and shall incorporate

adequate erosion control plans to prevent erosion during and after the repair work has been completed.

165.09.09: LANDSCAPING OF LAKESHORE PROPERTY

A. Shoreline Bank Defined. The shoreline bank of Blackhawk Lake, for the purpose of this ordinance, shall include any real property within a Lakeshore Residential District which is above the "ordinary high water mark" and which is below the existing grade of the lot or lots of which the shoreline bank is a part.



- B. Ordinary High Water Mark Defined. As used in this ordinance, the term "ordinary high water mark" means the line located as such by the Iowa Department of Natural Resources.
- C. Landscaping Defined.- Landscaping shall mean that comprehensive array of activities pursuant to which rock or soil is cut into, dug, quarried, uncovered, displaced or relocated and which includes removal of viable plant life, rock or soil deposited by persons in the past or by natural means, and replaced by any manner or terracing by rock, timbers, retaining walls or other conventional means. Landscaping shall not mean the act of excavating real property for construction of a foundation or otherwise preparing the same for the construction or erection of a dwelling or other building.

- D. Unlawful Act. It shall be unlawful for any individual, person, corporation or other entity to landscape shoreline bank in any manner.
- E. Unlawful Acts. It shall be unlawful for any individual, corporation or other entity to permanently remove viable native vegetation or other viable plant life from the lakeshore bank without replacing the same with other vegetation that is equally effective in retarding erosion and preserving the natural appearance of the lakeshore bank. This provision shall not be constructed to prohibit the pruning or trimming of existing vegetation nor shall it prohibit the removal of harmful, poisonous or noxious plant life from the lakeshore bank.
- F. Penalty. Any violation of any provision of this Ordinance may be enforced in accordance with Chapter 4 of the Code of Ordinance of the City of Lake View, Iowa.
- G. Exceptions. It is acknowledged that in certain areas lakeshore bank is subject to erosion and siltation due to the terrain of adjacent real estate. It is further acknowledged that in certain areas lakeshore bank is subject to bank erosion due to wave action of the lake. A special landscaping permit may be obtained from the Zoning Administrator for the purpose of allowing the performance of limited landscaping of lakeshore bank in order to prevent erosion and siltation in such instances. Applications for a special landscaping permit shall be filed through the Zoning Administrator in the same manner as a building permit.
- H. Appeal. Appeals of any decision by the Zoning Administrator denying the issuance of a special lakeshore landscaping permit may be appealed to the Board of Adjustment.

165.09.10: OFF-STREET PARKING REGULATION:

Dwellings: two (2) parking spaces in the lot for each living unit in the building.

**165.10 PROVOST AREA RESIDENTIAL DISTRICT****165.10.01: REGULATIONS**

The Provost Residential District consists of property for seasonal or permanent residential use on the area commonly known as Provost Island. This property is unique in that much of the land is owned by one owner and is not subdivided. Structures in the Provost Area are owned by the occupant, but the land on which the structures sit is leased from another owner. Because of the uniqueness of this Provost Area district, in any instance in which any regulation of the Provost Area District conflicts with other provisions of this Ordinance, the Provost Area District regulations shall prevail.

**165.10.02: USE REGULATIONS**

A building or premises shall be used only for the following purposes:

**A. PRINCIPAL PERMITTED USES**

1. A single family dwelling.
2. Cabins which otherwise may not meet minimum housing requirements.
3. The renting of residential property such as a room, a group of rooms or an entire residence.

**B. ACCESSORY USES**

1. Any accessory buildings permitted in the R-2 District.
2. Pickup campers, travel trailers, motor homes, motor boats, and boat lifts may be stored for more than 72 hours, provided, however, that the owner or tenant of the property is in fact the actual owner of the unit, and further provided that said units may not be occupied unless a certificate of occupancy is obtained.

Certificates of occupancy may be issued such that one camping unit per address may be occupied for not more than three days during the following weekends only: Memorial Day, Fourth of July,



Water Carnival, and Labor Day. Occupied units may not be parked on the public right-of-way and must be parked on private property inside the sidewalk or at least six feet from the street surface if the property has no sidewalk. The property owner must obtain and display a permit to occupy the camping unit.

A property owner who violates Section 165.10.02.B.2 will be subject to removal of the occupied camping unit and a civil penalty of \$50.00 per occurrence.

(Amended Ordinance No. 407 Oct. 2006)

#### 165.10.03: SPECIAL EXCEPTIONS:

Certain uses may be permitted in the Provost Area district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

1. Public or private utility substations, relay stations, etc.

#### 165.10.04: MAXIMUM HEIGHT REGULATION

No principal building shall exceed thirty-five feet in height. Communications towers for non-commercial use are exempt from this height regulation.

#### 165.10.05: BULK REGULATIONS

- A. The front property line shall be the "ordinary high water mark" on the lake side.
- B. The rear property line shall be the right-of-way line on South State Road.
- C. The following minimum requirements shall be observed. The separation distance shall be measured from a vertical plane from the portion of the structure nearest the property line or adjacent structure, including cantilevers, overhangs, and decks.

Front Yard:	12 feet
Rear Yard:	10 feet

Separation Distance between Primary Structures          6 feet

The separation distance shall not apply to buildings owned by the same owner, such as garages, equipment sheds, etc., but all buildings shall meet the front, rear and side separation distances.

- D. Prior to consideration of a building permit by the City, the property owner shall sign the building permit application attesting that they have reviewed and approve of any proposed construction project and that the proposed project meets the required separation distances.

(Amended Ordinance No. 408 Sept. 2006)

165.10.06: NON-CONFORMING STRUCTURES IN THE PA DISTRICT

- A. Structures within the Provost Area zone may be reconstructed on their existing foundation or at a setback equivalent to the location of the old structure.
- B. Non-conforming structures in the Provost Area zone may be enlarged in ways that do not increase the non-conformity as it relates to the side yard separation distances. The additions to non-conforming structures must comply with front and rear yard setbacks.

(Amended Ordinance No. 408 Sept. 2006)

165.10.07: OFF-STREET PARKING REGULATION:

1. Dwellings: two off-street (2) parking spaces for each living unit.

**165.11 MH - MOBILE HOME DISTRICT****165.11.01: REGULATIONS**

This district is intended to provide a certain medium density residential area in the City now developed as mobile home parks which by reason of their design and location are compatible with surrounding residential areas and areas of the City where similar development seems likely to occur.

**165.11.02: USE REGULATIONS****A. PRINCIPAL PERMITTED USES**

Mobile homes located in an approved mobile home park.

**B. ACCESSORY USES.**

1. Any use permitted in the R-2 District providing such use shall comply with the minimum requirements of the MH District.
2. Customary Home Occupations: Provided that such occupations shall be conducted solely by resident occupants in their place of abode, and not more than one employee, involving primarily service and not the sale of goods or commodities upon the premises and provided that not more than one-fourth (1/4) the area of one (1) floor shall be used for such purpose.
3. Pickup campers, travel trailers, motor homes, motor boats, and boat lifts may be stored for more than 72 hours, provided, however, that the owner or tenant of the property is in fact the actual owner of the unit, and further provided that said units may not be occupied unless a certificate of occupancy is obtained.

Certificates of occupancy may be issued such that one camping unit per address may be occupied for not more than three days during the following weekends only: Memorial Day, Fourth of July, Water Carnival, and Labor Day. Occupied units may not be parked on the public right-of-way and must be parked on private

property inside the sidewalk or at least six feet from the street surface if the property has no sidewalk. The property owner must obtain and display a permit to occupy the camping unit.

A property owner who violates Section 165.11.02.B.3 will be subject to removal of the occupied camping unit and a civil penalty of \$50.00 per occurrence.

(Amended Ordinance No. 407 Oct. 2006)

#### 165.11.03: BULK REGULATIONS

1. Each mobile home park shall consist of at least 5 acres.
2. All utility wires, pipes, and tanks shall be underground, with the exception of above-ground tanks for heating fuel.
3. Set backs on each mobile home lot shall be as follows: front yard - 12 feet; rear yard - 10 feet.

(Amended Ordinance No. 405 Mar. 2006)

4. Primary structures and any structures attached thereto shall maintain a separation distance of six (6) feet. The separation distance shall not apply to buildings owned by the same owner, such as garages, equipment sheds, etc.

(Amended Ordinance No. 405 Mar. 2006)

5. All minimum street widths in mobile home parks shall be as follows:

a.	No parking in street	1 way	14 feet
		2 way	20 feet
b.	Parallel parking on side	1 way	20 feet
		2 way	30 feet
c.	Parallel parking both sides	1 way	26 feet
		2 way	36 feet

#### 165.11.04: SPECIAL EXCEPTIONS

Certain uses may be permitted in the MH district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

- A. Swimming pools with a depth exceeding two feet for the benefit of the residents of the mobile home court and their guests.

- B. A recreation or meeting area for the benefit of the residents of the mobile home court and their guests.

**165.12 P - PARKS AND OPEN SPACES DISTRICT****165.12.01: REGULATIONS**

The P - Parks and Open Spaces District is dedicated to the public access to park lands and open spaces. Because of the uniqueness of this P - Parks and Open Spaces district, in any instance in which any regulation of the Provost Area District conflicts with other provisions of this Ordinance, the Provost Area District regulations shall prevail.

**165.12.02: USE REGULATIONS**

A building or premises shall be used only for the following purposes:

**A. PRINCIPAL PERMITTED USES**

1. Public parks and public access areas
2. Structures for operations and maintenance of parks and public access areas.

**B. ACCESSORY USES**

1. Any use accessory to the provision of public parks and open spaces.

**165.12.03: SPECIAL EXCEPTIONS:**

Certain uses may be permitted in the Parks and Open Spaces district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

1. Public or private utility substations, relay stations, etc.
2. Public swimming pool
3. Public golf course

**165.12.04: MAXIMUM HEIGHT REGULATION**

No principal building shall exceed thirty-five feet in height. Communications towers for non-commercial use are exempt from this height regulation.



165.12.05: BULK REGULATIONS

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, and overhangs.

Principal	Front			
Use	Yard	Lot	Side Yard	
Depth	Yard	Area	each side	
	20 ft	None	None	30 ft
				10 ft

165.12.06: OFF-STREET PARKING REGULATION:

Due to the uniqueness of the Parks District, parking requirements will be determined by the Planning & Zoning Commission for each new or altered structure.



**165.13 C-COMMERCIAL DISTRICT****165.13.01: REGULATIONS**

The C-Commercial District is intended to accommodate a wide range of retail commercial services and products, wholesaling, warehousing, and residential dwellings.

**165.13.02: USE REGULATIONS**

A building or premises shall be used only for the following purposes:

A. **PRINCIPAL PERMITTED USES**

1. Any use permitted in R-3 District
2. Retail business or service establishments.

B. **ACCESSORY USES.**

1. Any accessory uses permitted in the R-3 District providing such use shall comply with the minimum requirements for the C-District.

**165.13.03: SPECIAL EXCEPTIONS**

Certain uses may be permitted in the C district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

1. Public or private utility substations, relay stations, etc.
2. Restricted Businesses provided no such establishment shall be located within 1,000 feet of another adult entertainment business, or any school, place of worship, public park, playground, public plaza, day care center, nursery school, regularly scheduled school bus stop, any dwelling or any residential zoning district.

**165.13.04: HEIGHT REGULATIONS**

No principal building shall exceed thirty-five feet in height. Communications towers for non-commercial use are exempt from this height regulation.

165.13.05: BULK REQUIREMENTS.

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and decks.

			<u>Side Yard Width</u>			
			Least			
Minimum			Front	Width	Sum of	Rear
Principal		Lot	Yard	on any	Side	Yard
<u>Use</u>	<u>Lot Area</u>	<u>Frontage</u>	<u>Depths</u>	<u>side</u>		
<u>Yards Depths</u>						
Dwellings	Same as in the R-3 District					
			<u>Side Yard</u>			
	<u>Rear Yard</u>					
All other uses			None except adjacent		None except	
	abutting an		an R-District		R-	
District			in which case		in	
which case			not less than		not	
less than			eight feet.			
	twenty feet.					

165.13.06: OPEN SPACE REOUIREMENTS

All residential buildings and land use in the C District shall comply with the following: On each lot there shall be provided an open space equal to at least twenty-five per cent of the total lot area; said space shall be unencumbered with any structure and shall be landscaped and well maintained with grass, trees and shrubbery. Any commercial use in the C-District shall be exempt from this requirement.

165.13.07: OFF-STREET PARKING REGULATION

The following off-street parking regulations shall apply in the Commercial district. These parking regulations shall not apply to those business located in the Downtown area on Main Street, 3<sup>rd</sup> Street, 4<sup>th</sup> Street and 5<sup>th</sup> Street.

1. Sales & Service Building: one (1) parking space per 300 square feet of gross floor area.
2. Offices / Clinics: one (1) parking space per 300 square feet of gross floor area.
3. Dwellings: two (2) parking spaces in the lot for each living unit in the building.
4. Churches: one (1) parking space on the lot for each 5 seats in the main auditorium.
5. Restaurants: one (1) parking space on the lot for each 5 seats in the restaurant.

**165.14 CB- CENTRAL BUSINESS DISTRICT**

(Amended Ordinance No. 420 May 2009)

**165.14.01: REGULATIONS**

In the CB - Central Business District is intended to be a high-density, compact, pedestrian-oriented shopping, office, service and entertainment area in the City. This zone is intended to accommodate a wide range of retail, service, office and residential uses.

**165.14.02: USE REGULATIONS**

A building or premises shall be used only for the following purposes:

**A. PRINCIPAL PERMITTED USES**

1. Retail stores.
2. Office or office buildings.
3. Banks or financial institutions.
4. Insurance agencies and attorney's offices.
5. Taverns or Restaurants, except drive in facilities.
6. Personal service uses, including barbershops, beauty parlors, photographic or art studios, dance or music academies, newspapers, laundry or dry cleaning and other uses of a similar character.
7. Medical facilities.
8. Entertainment facilities including meeting halls, bowling alleys, billiards parlors, clubs and theatres.
9. Mortuary.
10. Hotel or motel.
11. Religious institutions.
12. Child daycare facilities.
13. Parks and open spaces.
14. Laboratory, research, experimental or testing.
15. Government offices, including the US Postal Service.
16. Dwellings, except that fifty-one percent (51%) of the square footage of the first floor shall be business use. Said 51% shall be the portion nearest Main Street.
17. Second story residential use.
18. Accessory structures on the same or adjoining parcel only.

**165.14.03: SPECIAL EXCEPTIONS**

Certain uses may be permitted in the CB district subject to specific conditions and requirements intended to make them compatible with and acceptable

adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

3. Public or private utility substations, relay stations, etc.
4. Drive-in establishments, including restaurants.

5. Restricted Businesses provided no such establishment shall be located within 1,000 feet of another adult entertainment business, or any school, place of worship, public park, playground, public plaza, day care center, nursery school, regularly scheduled school bus stop, any dwelling or any residential zoning district.
6. Wholesale establishments or warehouse in a completely enclosed building except that fifty-one percent (51%) of the square footage of the first floor shall not be used as such wholesale establishment or warehouse. Said 51% shall be the portion nearest Main Street.
7. Automobile service station.

#### 165.14.04: HEIGHT REGULATIONS

No principal building shall exceed thirty-five feet in height. Communications towers for non-commercial use are exempt from this height regulation.

#### 165.14.05: BULK REQUIREMENTS.

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and decks.

All uses	<u>Side Yard</u>	<u>Rear Yard</u>
except	None except	None
an	adjacent	abutting
case	an R-District	R-District
than	in which case	in which
feet.	not less than	not less
	eight feet.	twenty

#### 165.14.06: NON-CONFORMING USES.

All lawful pre-existing uses at the time of the enactment of this ordinance are considered conforming uses. If the property is sold, the structures may continue to be used for the current use.

Any building or structure housing a use which is non-conforming under this Chapter which is damaged more than fifty per cent of its then replacement value as determined by the building inspector, exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot or act of God, shall not be restored or reconstructed and used as before such happening; but if less than fifty per cent is damaged above the foundation, it may be restored, reconstructed, or used as before, provided that it be done within one year of such happening.

(Amended Ordinance No. 421 November, 2009)

**165.15 I-INDUSTRIAL DISTRICT**

The I-Industrial District is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, physical appearance or other similar factors.

**165.15.02: USE REGULATIONS**

PRINCIPAL PERMITTED USES. The following are principal permitted uses in the Industrial Zone

- A. Any use permitted in the C- Commercial District, except that no dwelling other than that for a resident watchman or caretaker employed on the premises shall be permitted.
- B. Agriculture, including the usual agricultural buildings and structures; however, not including any residential farm dwellings.
- C. Storage, manufacture, compounding, processing, packing and/or treatment of products, exclusive of the rendering or refining of fats and/or oils.
- D. Manufacture, compounding, assembly and/or treatment of articles or merchandise derived from previously prepared materials.
- E. Assembly of appliances and equipment, including manufacture of small parts.
- F. Wholesale distribution of all standard types of prepared or packaged merchandise.
- G. Sale and storage of building materials.
- H. Contractors' offices and storage of equipment.



- I. Public or private utility substations, relay stations, etc.
- J. Laboratories, research, experimental and testing.
- K. Grain elevators, grain storage and feed mixing plants.
- L. Metal fabrication, welding shop.
- M. Generally those offices, laboratory and manufacturing uses similar to those listed in this section which not create any danger to health and safety in surrounding areas and which do not create any offensive noise, vibration, smoke, dust, odors, heat or glare.

#### B. ACCESSORY USES

- 1. Any accessory use customarily accessory and incidental to a permitted principal use.

#### 165.15.03: REQUIRED CONDITIONS

- A. All applicants for new uses in the Industrial Zone must hold an approved industrial permit and site plan.
- B. No industrial permit shall be issued for any use in conflict with any Ordinance of the City of Lake View, Iowa; or law of the State of Iowa which regulates nuisances.
- C. No industrial permit shall be issued for any industrial use until and unless the location of such use shall have been authorized by the City Council after reports by the Planning and Zoning Commission, and the Chief of the Fire Department.
- D. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, offensive or will pollute the air or water due to the emission of cinders, dust, gas fumes, noise, odor, smoke, refuse matter or water-carried waste.

- E. The best practical means known shall be employed for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance.

#### 165.15.04: HEIGHT REGULATIONS

No structure shall exceed in height the distance measured to the center line of the nearest street from any portion of the proposed building or structure.

#### 165.15.05: BULK REQUIREMENTS

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, and overhangs.

Principal Use	Rear Yard Depths	Lot Area	Lot Width	Front Yard* Depths	Side Yard** each side
	None 20 ft		None	30 ft	10 ft

\* All yards in the I-District abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.

\*\* I-District adjacent to any R-District, the minimum setback shall be 50 feet from the I-District boundary line, except in such cases where the district line is construed to follow the centerline of a public thoroughfare, wherein such cases shall be determined by the provisions for the required minimum front yard depth.

#### 165.15.06: OPEN SPACE REOUIREMENTS

All buildings and land use in any I-District shall comply with the following: On each lot there shall be provided an open space equal to at least twenty per cent of the total lot area; said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives.

165.15.07: OFF-STREET PARKING REGULATION: The following off-street parking regulations shall apply in the Industrial district.

- A. All commercial uses: one (1) parking space per 300 square feet of gross floor area.
- B. All industrial uses shall provide one (1) parking space on the lot for each two (2) employees of maximum number employed at one time.

**165.15A HI - HEAVY INDUSTRIAL DISTRICT****165.15A.01: REGULATIONS**

The HI – Heavy Industrial District is intended to accommodate general manufacturing and closely related use while providing protection from harmful effects to existing and future uses in other districts and ensuring environmental protection for areas around Black Hawk Lake.

**165.15A.02: USE REGULATIONS**

PRINCIPAL PERMITTED USES. The following are principal permitted uses in the Heavy Industrial Zone

1. There may be any use, excluding residential uses and mobile homes.
2. All Heavy Industrial uses must be given separate City Council approval before the specific use is authorized.

**B. ACCESSORY USES**

1. Any accessory use customarily accessory and incidental to a permitted principal use.

**165.15A.03: REQUIRED CONDITIONS**

- A. All applicants for new uses in the Industrial Zone must hold an approved industrial permit.
- B. No industrial permit shall be issued for any use in conflict with any Ordinance of the City of Lake View, Iowa; or law of the State of Iowa which regulates nuisances.
- C. No industrial permit shall be issued for any industrial use until and unless the location of such use shall have been authorized by the City Council after reports by the Planning and Zoning Commission, and the Chief of the Fire Department.

- D. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, offensive or will pollute the air or water due to the emission of cinders, dust, gas fumes, noise, odor, smoke, refuse matter or water-carried waste.
- E. The best practical means known shall be employed for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance.
- F. All principal buildings and all accessory buildings or structures, including loading and unloading facilities shall be located at least 200 feet from any R-District and not less than 100 feet from any other district except an I-District.

#### 165.15A.04: HEIGHT REGULATIONS

No structure shall exceed in height the distance measured to the center line of the nearest street from any portion of the proposed building or structure.

#### 165.15A.05: BULK REQUIREMENTS

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, and overhangs.

Principal Use	Rear Yard	Lot Area	Lot Width	Front Yard* Depths	Side Yard** each side
<u>Depths</u>					
	None		None	30 ft	10 ft
	20 ft				

\* All yards in the I-District abutting a public thoroughfare shall be considered front yards and shall comply with the requirements for a front yard.

\*\* I-District adjacent to any R-District, the minimum setback shall be 50 feet from the I-District boundary line, except in such cases where the district line is construed to follow the centerline of a public thoroughfare, wherein such cases shall be determined by the provisions for the required minimum front yard depth.

#### 165.15A.06: OPEN SPACE REQUIREMENTS

All buildings and land use In any I-District shall comply with the following:  
On each lot there shall be provided an open space equal to at least twenty per cent of the total lot area; said space shall be unencumbered with any structure or off-street parking and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used as pedestrian walks and ingress-egress drives.

165.15A.07: OFF-STREET PARKING REGULATION: The following off-street parking regulations shall apply in the Industrial district.

- C. All commercial uses: one (1) parking space per 300 square feet of gross floor area.
- D. All industrial uses shall provide one (1) parking space on the lot for each two (2) employees of maximum number employed at one time.

**165.16 A-AGRICULTURAL DISTRICT****165.16.01: REGULATIONS**

The A-Agricultural District is one of agricultural uses designed to permit the continuation of agricultural uses.

**165.16.02: USE REGULATIONS**

A building or premises shall be used only for the following purposes:

**A. PRINCIPAL PERMITTED USES.**

1. Agriculture and the usual agricultural buildings and structures
2. The raising of livestock, not to exceed two head of cattle, chickens, horses, hogs, sheep or any other livestock.
3. Gardening and nurseries, provided that no permanent dwelling units shall be erected thereon unless the tract contains ten or more acres.
4. Single family housing.
5. Mining and extraction of minerals or raw material, subject to prior recommendation from the Planning and Zoning Commission and approval by the Council.
6. Forest and forestry
7. Noncommercial park, playground, golf course (both public and private) and recreational use.
8. Any use erected or maintained by a public agency
9. Public utility structures and equipment necessary for the operation thereof.
10. Transmitting station and tower

**B. ACCESSORY USES.**

1. Accessory buildings and uses customarily incidental to any of the above uses.

**165.16.03: SPECIAL EXCEPTIONS**

Certain uses may be permitted in the AG district subject to specific conditions and requirements intended to make them compatible with and acceptable adjacent uses. Applicants must obtain a Special Exception through the Board of Adjustment.

1. Cemeteries, crematories, and mausoleums.
2. Commercial kennels.
3. Stables, private or public.
4. Greenhouses and nurseries.
5. Publicly operated sanitary landfills.
6. Recreational facilities, camps, and golf courses.
7. Public or private utility substations, relay stations, etc.
8. Churches or accessory facilities (on or off site)
9. Public or private schools.

#### 165.16.04: HEIGHT REGULATIONS

Any building hereafter erected or structurally altered may be erected to any height not in conflict with other Ordinances of the City of Lake View, Iowa.

#### 165.16.05: BULK REOUIREMENTS

The following minimum requirements shall be observed. The setback shall be measured from a vertical plane from the portion of the structure nearest the line, including cantilevers, overhangs, and patios.

Minimum		Lot		<u>Side Yard Width</u>		Rear
				Least		
Principal	Side Yard	Lot		Width	Sum of	Rear
Use	Use	Area	Width	on any	both	
<u>Yards</u>	<u>Depths</u>			<u>one side</u>		
All uses	10 Acres	200 ft.	50 ft.	50 ft.	100 ft.	50 ft.



**165.17 SPECIAL USES****165.17.01: REGULATIONS**

It is recognized that certain uses possess characteristics of such unique and special form as to make impractical their being included automatically in any class of use as set forth in the various districts established by this Ordinance; therefore, these uses shall be subject to certain conditions and standards set forth in this Section, and the authority for the location thereof shall be subject to review by the Planning and Zoning Commission and the issuance of a special use permit by the Board of Adjustment provided, however, a special use permit may not be granted for a use in a zoning district from which it is specifically excluded by the provisions of this Ordinance.

**165.17.02: REQUIRED CONDITIONS****A. GENERAL CONDITIONS.**

A special use permit shall not authorize a use which is in conflict with any Ordinance of the City of Lake View, or law of the State of Iowa regulating nuisances, pollution or hazardous occupation.

**B. REQUIRED SITE PLAN**

The request for authorization of special use shall be accompanied by a site plan.

**165.17.03: RESTRICTIONS**

- A. Authorization for a special use permit shall be granted subject to the following conditions:
- B. Buildings involving the large assemblages of people shall not be located less than 300 feet from any existing dwelling site.
- C. Uses involving nuisances such as noise, vibration, pollution etc., shall not be located less than 500 feet from an R-District or less than 1,000 feet from an existing dwelling.
- D. Uses involving the large assemblages of people shall not be located where the arterial traffic system is inadequate to provide for the increased traffic density.

- E. Uses involving the extensive use of exterior lighting shall not be located where such lighting may be hazardous to air or ground trafficways and such uses shall not be located less than a distance required to reduce the light intensity to normal residential street lighting intensity at any R-District boundary.

165.17.04: TEMPORARY USES

Notwithstanding other provisions of the Ordinance, the City Council may without notice or public hearing issue a special permit authorizing the operation of a charitable or other nonprofit sponsored carnival or event for a period not to exceed seven days.

165.17.05: PROCEDURE

The procedure for obtaining a special use permit be as follows:

- A. Written applications on approved forms shall be filed with the Zoning Administrator and shall be accompanied by detailed plans.
- B. The application shall be referred to the Planning and Zoning Commission. The Commission shall hold a public hearing to review the application for a special permit and shall make a report to the Board of Adjustment regarding the recommended disposition of the application within forty-five days from the date of such public hearing.
- C. The Board of Adjustment shall hold a public hearing within thirty days after receiving the certification of said recommended disposition by the Commission.
- D. Notice of hearing by the Commission and Board shall be given to all property owners within 500 feet of the boundary of the property on which the special use is to be located. Such notice shall be at least ten days prior to the hearing and shall contain the time and location of such hearing.
- E. The special permit issued may include time limits, and other conditions or safeguards deemed necessary or appropriate by the Board. Violations of such conditions and safeguards shall be deemed a violation of this Ordinance and punishable under the provisions of this Ordinance. In addition, the special permit in connection with such violation, shall be subject to revocation by the Board.
- F. Whenever an application for special permit has been denied by the Board, no new application for special permit including the

same property or any portion thereof shall be filed or considered by the Board until six months shall have elapsed from the date of the official denial of the first application.

**165.18: ADMINISTRATION AND ENFORCEMENT, AND BUILDING PERMITS****165.18.01: ADMINISTRATION AND ENFORCEMENT**

The provisions of this Ordinance shall be enforced and administered by the Zoning Administrator. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this Ordinance to Insure compliance with or to prevent violation of its provisions.

**165.18.02: BUILDING PERMITS REQUIRED**

Buildings or other structures shall not be erected, moved, added to, structurally altered, nor shall the external dimensions of the structure be altered without a Building Permit issued by the Zoning Administrator and approved by the City Council. Building permits can be issued only to the property owner or the property owners authorized agent. Construction or alteration any structure, whether permanently attached to the ground or not, requires a Building Permit. Construction permits shall be issued in conformance with the provisions of this Ordinance, or upon written order from the Board of Adjustment, but shall be null and void if the purpose for which the permit issued is not commenced within twelve (12) months from the date of issuance. Dog kennels and patios are exempt from obtaining a building permit.

(Amended Ordinance No. 410 Sept. 2006)

**165.18.03: APPLICATION FOR BUILDING PERMITS**

All applications for Building Permits shall be accompanied by a site plan showing the actual dimensions and shape of the lot to be built upon, and the location and dimensions of the existing or proposed building or alteration. The application shall include existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; temporary and final drainage plans; and such other matters

as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.

165.18.04: CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION.

Construction permits issued on the basis of plans and applications, approved by the City Council, authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. To further insure compliance with the provisions of this Ordinance, the Zoning Administrator, upon notification that the project has been staked out as shown in the approved plans and applications, shall finally approve the permit application.

Failure to obtain a final approval from the Zoning Administrator shall be deemed a violation of this Ordinance and punishable as a municipal infraction according to Chapter 4 of the Lake View Code of Ordinances.

165.18.05: FEES FOR BUILDING PERMITS

Fees for building permits shall be established by resolution of the City Council. Fees for building permits for structures which are 64 square feet or less and without a foundation shall be at a reduced rate as established by resolution of the City Council.

(Amended Ordinance No. 410 Sept. 2006)

165.18.06: CONCRETE CONSTRUCTION PERMITS REQUIRED

Residents conducting at-grade construction activities using concrete shall obtain a Concrete Construction Permit. This shall include the construction or repair of driveways, sidewalks, patios or other at-grade construction activities. Charges are to be determined by resolution of the City Council. Permits shall be approved by the Public Works Director.

**165.19. BOARD OF ADJUSTMENT PROCEDURE, POWERS AND DUTIES****165.19.01: BOARD OF ADJUSTMENT ESTABLISHMENT AND PROCEDURE**

- A. Board Created. A Board of Adjustment is hereby established which shall consist of five (5) members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute.
- B. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in the Chairperson's absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall, through its Secretary, 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 immediately filed in the office of the Board and shall be a public record. All actions of the Board concerning special exceptions or variances shall also be recorded in the office of the County Recorder. It shall be the responsibility of the appellant to record said action and all corresponding stipulations and further said action shall take effect upon the Board receiving sufficient confirmation of the same. A copy of said action shall also be filed in the office of the Zoning Administrator.

**165.19.02: BOARD OF ADJUSTMENT POWERS AND DUTIES**

The Board of Adjustment shall have the following powers and duties:

- A. *Administrative Review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance.
  - 1. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of

the City of Lake View affected by any decision of the administrative officer. Such appeal shall be taken within sixty (60) days by filing with the Zoning Building Administrator, and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed is taken.

2. The Board shall fix a reasonable time for the hearing of the appeal, and give not less than seven (7) days nor more than twenty (20) days' public notice in a paper of general circulation in Lake View, thereof, and decide the same within 30 days. At said hearing, any party may appear in person, by agent or by attorney. Notice of hearing shall be provided by registered mail to any owners of property contiguous with the lot for which the hearing is being held. Contiguous owners shall include owners immediately opposite across any public right-of-way.
  3. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment, after the Notice of Appeal is filed with the administrator, that by reason of facts stated in the certificate, a stay would, in the Administrator's opinion, 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 of Adjustment or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.
- B. 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 ordinance, 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 ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this ordinance. A special exception shall not be granted by the, Board of Adjustment unless and until:



1. A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested;
  2. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than seven (7) days nor more than twenty (20) days' public notice in a paper of general circulation in Lake View, thereof, and decide the same within 30 days. At said hearing, any party may appear in person, by agent or by attorney. Notice of hearing shall be provided by registered mail to any owners of property. contiguous with the lot for which the hearing is being held. Contiguous owners shall include owners immediately opposite across any public right-of-way;
  3. The public hearing shall be held. Any party may appear in person, by agent or attorney;
  4. The Board of Adjustment shall make a finding that it is empowered under the section of this ordinance described in the application to grant the special exception and that the granting will not adversely affect the public interest.
- E. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
1. A written application for a variance is submitted demonstrating:
    - a.) That special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other. lands, structures, or buildings in the same district;
    - b.) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly

enjoyed by other properties in the same district under the terms of this ordinance;

- c.) That the special conditions and circumstances do not result from the actions of the applicant; and
- d.) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance 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 or nonconforming use of land, structures, or buildings in other districts may be considered grounds for the issuance of a variance.

2. The Board shall fix a reasonable time for the hearing of the variance, and give not less than seven (7) days nor more than twenty (20) days public notice in a paper of general circulation in Lake View, thereof, and decide the same within 30 days. At said hearing, any party may appear in person, by agent or by attorney. Notice of hearing shall be provided by registered mail to any owners of property. Contiguous with the lot for which the hearing is being held. Contiguous owners shall, include owners immediately opposite across any public right-of-way;
3. The public hearing shall be held. Any party may appear in person, by agent or by attorney;
4. The Board of Adjustment shall make findings that requirements of Section 165.18.02.1A have been met by the applicant for a variance;
5. The Board of Adjustment 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.
6. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such

conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under this ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district.

- D. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.
- E. The council may provide for its review of variances granted by the Board of Adjustment before their effective date. The council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is, in such case, delayed for thirty days from the date of the remand.

#### 165.19.03: APPLICATION FEES

**Persons seeking a variance, administrative review, or special exception shall be responsible for all costs associated with the public notification, including, but not limited to costs of mailings, legal publication, and Board fees. Applications shall make a \$ 100.00 deposit. In the event that the actual costs exceed \$ 100.00, the applicant shall be responsible for the additional costs. In the event that the actual costs are less than \$ 100.00, the applicant shall be reimbursed the difference.**

(Amended Ordinance No. 359 Sep. 2002)

#### 165.19.04: APPEALS FROM THE BOARD OF ADJUSTMENT

Any person or persons, or any taxpayer, department, board or bureau of the City, or other areas subject to this ordinance aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.



**165.20: ENFORCEMENT, VIOLATIONS AND PENALTIES****165.20.01: ENFORCEMENT:**

All officials or employees of the City of Lake View authorized to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provisions of this Ordinance.

**165.20.02: PENALTIES FOR VIOLATION**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements, shall upon conviction be fined \$ 100.00 or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense with a fine of \$ 25.00 per occurrence.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**165.21: CHANGES AND AMENDMENTS; MAP REPLACEMENT AND ZONING OF ANNEXED AREAS****165.21.01: CHANGES AND AMENDMENTS**

The Council may on its own motion, or on petition after public notice and hearing as provided by law, and after report by the Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established. Any owner or owners of property in the area to be included in the proposed amendment, may present a petition duly signed and verified, requesting an amendment, supplement or change in the regulations prescribed for a district or part thereof. Such petition shall be signed by the owners of at least fifty per cent of the area included in such proposed change, and by the owners of fifty per cent of the property within 300 feet therefrom, and said petition shall be filed with the Zoning Commission.

The Commission shall make a report to the Council within sixty days from the date of receipt of such petition, except those initiated by the Commission. In case the proposed amendment, supplement or change be disapproved by the Zoning Commission, or in case of a protest against any proposed amendment or change signed by the owners of twenty per cent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear, 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 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 become effective except by the favorable vote of at least three-fourths of all the members of the Council.

#### **165.21.02: MAP REPLACEMENT**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the mayor attested by the clerk under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. 335 of the City of Lake View, Iowa."

#### **165.21.03: ZONING OF ANNEXED AREAS**

Any land annexed to the City after the effective date of this Ordinance shall be zoned

R-3 Residential until the Commission and Council shall have studied the area and adopted a final zoning plan for the area. Said final zoning plan shall be adopted within six months of date of annexation.

#### **165.22: REPEALER**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, are hereby repealed.

#### **165.23: SEVARABILITY CLAUSE**

Should any section or provision of this Ordinance be declared by a court of competent Jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

**165.24: EFFECTIVE DATE**

This Ordinance shall be in force and effect after its passage, approval, and publication as provided by law.

**CHAPTER 166****SUBDIVISION REGULATIONS**

166.01 Purpose	166.14	Requirements of Final Plat
166.02 Definitions	166.15	Final Plat Attachments
166.03 Parks and Open Spaces	166.16	Final Plat to Commission
166.04 Parks and School Sites Reserved	166.17	Fees
166.05 Minor Subdivision	166.18	Final Plat Approval
166.06 Building Permit To Be Denied	166.19	General Requirements
166.07 Platting Required	166.20	Improvements Required
166.08 Preliminary Plat	166.21	Completion of
Improvements		
166.09 Requirements of Preliminary Plat	166.22	Performance Bond
166.10 Referral of Preliminary Plat	166.23	Agreement for Installation
of 166.11 Action by the Commission		Improvements
166.12 Final Plat	166.24	Variances
166.13 Referral of Final Plat		

166.01 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and re-subdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City.

166.02 DEFINITIONS. For use in this chapter, certain terms or hereby interpreted and defined.

1. "Alley" means a public or private way less than twenty one (21) feet in width affording secondary means of access to abutting property.
2. "Block" means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.
3. "Commission" means the City Planning and Zoning Commission.
4. "Corner Lot" means a lot situated at the intersection of two streets
5. "Cul-de-sac" means a minor street having one end open to traffic and terminated by a vehicular turn-around.
6. "Double Frontage Lot" means any lot which is not a corner lot which abuts two streets.
7. "Easement" means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.
8. "Lot" means a portion of subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development
9. "Major Street" means a street of considerable continuity connecting various sections of the City and designated as a major street on the official major street plan of the City.



10. "Minor Street" means a street which is used primarily for access to the abutting properties.
11. "Performance Bond" means a surety bond or cash deposit made out to the City in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City, and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
12. "Plat" means a map, drawing or chart on which the subdivider's plan of the subdivision of land is presented and which the subdivider submits for approval and intends, in final form, to record.
14. "Subdivider" means a person undertaking the subdivision or resubdivision of a tract or parcel of land.
15. "Subdivision" means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided or the resubdivision of land heretofore, divided or platted into lots or other divisions of land or, if a new street is involved, any division of land.
16. "Roadway" means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.
17. "Street" means and includes any public way, highway, street, avenue, boulevard, parkway, or other public thoroughfare, and each of such words includes every other of them, and includes the entire width between property lines.

166.03 PARKS AND OPEN SPACES. All residential subdivisions should be so designed as to meet the neighborhood park and open space needs of its residents. Such needs may be met by dedication and acceptance of public park land and/or by reservation by covenant of private open space; provided, there shall exist sufficient covenants running with the land, to insure adequate maintenance by the property owners benefiting from such open space.

166.04 PARKS AND SCHOOL SITES RESERVED. When a tract being subdivided includes lands propose to be parks or school sites in the comprehensive plan or other official plan of the City, the subdivider shall indicate such areas on the plat. Proposed park sites shall be reserved for three (3) years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivisions as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three (3) years, the subdivider may then amend the final plat

165.05 MINOR SUBDIVISION. Any subdivision which contains not more than four (4) lots fronting on an existing street and which does not require the

construction of any public improvements, and which does not adversely effect the remainder of the parcel shall be classified as a minor plat.

**166.06 BUILDING PERMIT TO BE DENIED.** No building permit shall be issued nor shall construction occur on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter and until the improvements required by this chapter have been accepted by the City.

**166.07 PLATTING REQUIRED.** Every owner of any tract or parcel of an who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or within two miles from the corporate limits, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lot therein contained or placing the lot on record. A subdivision must be platted when any tract of land existing at the date of adoption of this chapter is thereafter divided into three (3) or more parcels.

**166.08 PRELIMINARY PLAT.** The subdivider shall submit a preliminary plat in accordance with the requirements hereinafter set forth.

**166.09 REQUIREMENTS OF PRELIMINARY PLAT.** The subdivider shall first prepare and file with the Clerk six (6) copies of the preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimension, bearings, angles, and references to sections, townships, and range lines or corners.
3. Present and proposed streets, alley, and sidewalks, with their rights-of-way, in or adjoining the subdivision including dedicated widths, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions and square foot areas of lots that are not rectangular.
5. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
6. Present and proposed easements, showing locations, width, purposes and limitation.
7. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utility and other facilities, with the size, capacity, and location of each.
8. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
9. Tentative centerline profile and cross section of all streets or public ways existing and proposed grade.
10. Names and addresses of the owner, subdivider, builder and engineer, surveyor or architect who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.

12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat, if any.

166.10 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer five (5) copies to the Commission, and retain one (1) copy in the Clerks office.

166.11 ACTION BY THE COMMISSION. The Commission shall, within thirty (30) days from the receipt of such plat, file their written recommendations with the Clerk whether of approval, modification or disapproval. The Commission and the subdivider may agree to a reasonable extension of time for consideration of the preliminary plat by the Commission. The Council may thereafter make tentative approval of the plat as filed or revised.

1. In the event that substantial changes or modifications are made by the Commission or Council or if the plat is disapproved, the Council shall give the reasons therefor and may request and cause the revised preliminary plat to be resubmitted in same manner as the original preliminary plat.
2. Tentative approval by the Council and approval by the Commission shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

166.12 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of this chapter.

166.13 REFERRAL OF FINAL PLAT. The subdivider shall, within twelve (12) months of the "tentative approval" of the preliminary plat prepare and file copies of the final plat and other required documents with the Clerk as hereinafter set forth, and upon failure to do so within the time specified, "tentative approval" of the preliminary plat shall be null and void. Upon receipt of the final plat and other required documents, the Clerk shall transmit five (5) copies of the final plat to the Commission for its recommendations and approval.

166.14 REQUIREMENTS OF FINAL PLAT. The final plat shall be clearly and legibly drawn to a scale of not more than one hundred feet to one inch (100' = 1 "). It shall show:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot line, streets and alley. These should be exact and complete to include all distances, radii, arc, chords, lengths of tangency and certain angles.
3. Street names and clear designations of public alleys. Streets that are continuous of present streets should bear the same name. If new names

are needed, they shall be distinctive. Street names may be required to conform to the City plan.

4. Location, type, materials, and size of all monuments and markers including all U. S., County or other official bench marks.
5. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who prepared the final plat.

166.15 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.
2. A certificate by the owner and spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgment of deeds.
3. A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner and that the land is free from encumbrances other than those secured by an encumbrance bond.
4. A certificate from the County Treasurer that the subdivision land is free from taxes.
5. A certificate of dedication of streets and other public property.
6. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
7. Resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
8. Copies of the proposed agreement to be entered into between the subdivider and the City providing for grading and surfacing of streets, installation of sewer, utilities and other improvements.
9. The encumbrance bond, if any.

(Amended by Ordinance No. 378 November, 2003)

166.16 FINAL PLAT TO COMMISSION. The final plat shall be submitted to the Commission and within ten (10) days after receipt of the final plat, the Commission shall certify its recommendations to the Council.

166.17 FEES. At the time of filing of a plat or a replat for approval, the subdivider shall pay to the Clerk a fee according to the following schedule:

Number of Lots in Subdivision	Fee
1 to 10	\$25.00
11 or more	\$ 3.00 per lot

All fees shall be deposited in the General Fund. No fees shall be charged for processing preliminary plats.

166.18 FINAL PLAT APPROVAL. Within twenty (20) days of the certification by the Commission, the Council shall approve or disapprove the final plat; approval must be by a majority of the whole membership of the Council if the Commission disapproves the plat.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept same.
3. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider shall cause such plat to be recorded in the office of the County Recorder and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

166.19 GENERAL REQUIREMENTS. The following general requirements shall be by all subdividers:

1. Relation to existing streets.
  - A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
  - B. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Commission to meet a particular situation where topographic or other conditions made continuance or conformance to existing streets impractical.
2. Acreage subdivision.
  - A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

- B. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
  - C. Subdivision showing unplatted strips or private streets controlling access to public ways will not receive approval.
- 3. Minor streets.
  - A. Minor streets shall be so planned as to discourage through traffic.
  - B. Cul-de-sac streets' are permitted where topography and other conditions justify their use. Such streets shall not be longer than 500 feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such street shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street be rounded at a radius of not less than twenty (20) feet.
- 4. Frontage street.
  - A. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with the rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
  - B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Commission may require a street approximately parallel and on each side of such right-of-way and a distance suitable for the appropriate use of intervening land as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade preparation.
- 4. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity of the other requirements of these regulations, and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided the other half of the street shall be platted within such tract.
- 5. Street Geometrics.
  - A. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
  - B. When connecting street lines deflect from each other at any one point by more than ten degrees (10°), they shall be connected

by a curb with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collecting streets, and of such greater radii as the Commission shall determine for special cases.

- C. Street right-of-way widths shall be a minimum of fifth feet (50') with such greater widths as the Commission shall determine for special cases.

6. Intersections.

- A. More than four (4) approaches to an intersection are prohibited.
- B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty degrees (60°).
- C. Property lines at street intersection shall be rounded with a radius of ten (10) feet, or of greater radius where the Commission may deem it necessary.

7. Street Names. Streets that are in alignment with others already existing shall bear the name of the existing streets. The proposed names of the new streets shall not duplicate or sound similar to existing street names. Streets names shall be subject to the approval of the Commission.

8. Street Grades.

- A. Street grades, wherever feasible, shall not exceed five percent (5%), with due allowance for reasonable vertical curves.
- B. No street grade shall be less than one-half of one degree (.5 % of 1°).

10. Alleys.

- A. Alleys shall be provided in commercial and industrial districts, except that the Commission may waive this requirement if other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
- B. The width of an alley shall be twenty (20) feet.
- C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
- D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end as determined by the Commission.

11. Blocks. In blocks over five hundred (500) feet in length, the

Commission may require at or near the middle of the block a public way or

easement of not less than ten (10) feet in width for use by pedestrians and/or an easement for public utilities.

12. Lots.

- A. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated
- B. Minimum lot dimensions and sizes shall conform to the requirements for the zoning ordinance, provided:
  - (1) Residential lots where not served by public sewers shall not be less than eighty (80) feet wide nor less than 10,000 square feet in area.
  - (2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
  - (3) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.
- C. The subdividing of the land shall be such as to provide by means of public street, each lot with satisfactory access to an existing public street.
- D. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

13. Building Lines.

- A. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.
- B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction for both as will be adequate for the purpose.
- C. Plat Markers. Markers shall be placed at all block corners angle points, points of curves and streets, and all such intermediate points as shall be required by the Commission. Markers shall be approved by the Council on recommendation of the Commission.

**166.20 IMPROVEMENTS REQUIRED.** The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with specifications and under the supervision of the Council and to its satisfaction.



1. Streets and Alleys. All streets and alleys with the platted area which are dedicated for public use shall be brought to the grade approved by the Council.
2. Roadway Width. Major roadways shall be a minimum of thirty two feet (32') wide measured back of curb to back of curb. Minor roadways shall be a minimum of twenty nine feet (29') wide measured back of curb to back of curb.
3. Roadway Materials. All roadways shall be surfaced with portland cement concrete at a minimum depth of six inches (6") or with asphaltic concrete at a minimum depth of eight inches (8") or with asphalt concrete over a crushed stone base as the Commission and the Council may require. Increased depths of street surfacing and the use of re-bar or metal mesh may be required by the Commission and Council as determined for special cases.
4. Curb and Gutter. Curb and gutter a minimum of thirty inches (30") in width shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council and shall be tied into the street surface using re-bar.
5. Storm Water. The subdivider shall make provisions for the evacuation of storm water either through a storm sewer system the use of over-land drainage swales, with said drainage swales to be dedicated as public easement. Drainage improvements are subject to the approval of the Council and to the supervision of the Public Works Director.
6. Sidewalks. Sidewalks are required to be installed on one side of each street and shall be shown on the final plat. Sidewalks may be installed on both sides of the street at the discretion of the subdivider. Sidewalks must be contiguous with existing sidewalks, and are to be installed after the building is erected on the lot. Sidewalks shall be constructed to the grade approved by the Council.
7. Waterlines. Where a public water main is reasonably accessible, the City of Lake View, at the City's expense, will install water main within the subdivision. The City will install a water main of sufficient size to adequately provide for the fire protection needs of the subdivision.
8. Sewers.
  - A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision a sanitary sewer system and be required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the Superintendent of Public Works. Prior to construction, the subdivider must obtain a sanitary sewer extension construction permit from the State of Iowa.
  - B. Where sanitary sewers are not available other facilities as approved by the Council and the State Department of Health shall be provided for the adequate disposal of sanitary wastes.

9. Electricity. The City of Lake View will install electric service to the subdivision and to the meter loop of each structure at no cost to the developer in accordance with the tariff of the Lake View Municipal Electric Utility. Meter disconnects are provided at the expense of the building owner.
10. Street Lighting. The City of Lake View will install street lighting to the subdivision at no cost to the developer. The minimum standard for street light poles shall be a wood pole with one arm and one lamp. Metal, fiberglass or ornamental poles may be requested by the developer, with the developer paying the additional costs.

166.21 COMPLETION OF IMPROVEMENTS. Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the Public Works Director shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between the subdivider and the City.

166.22 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the City guaranteeing that improvements not completed will be constructed within a period of three (3) years from final acceptance of the plat; final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after the construction has been completed and no public funds will be extended in the subdivision until such improvements have been completed and accepted by the City.

166.23 AGREEMENT FOR INSTALLATION OF IMPROVEMENTS. The subdivider shall, before approval of the final plat, prepare and file a proposed form of agreement between the subdivider and the City setting forth the conditions for securing the grading of the streets, installation of sewers and utilities, and installation of permanent paving, and all other improvements. The amount of the surety bond, if any; the names of the sureties, if any, and the right for the City to perform such work if desired and recover the cost thereof from the sureties on the bond or the subdivider. The agreement shall provide the ownership of such improvements, when accepted by the City, to be in the City.

166.24 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivides, because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements and no instance shall it be in conflict with

any zoning ordinance and such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Council.

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