CHAPTER 1

CODE OF ORDINANCES

1.01 Title
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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 Clarence, Iowa.

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

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

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

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

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

7. "County" means Cedar County, Iowa.

8. "May" confers a power.

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

10. "Must" states a requirement.

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

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"Ordinances" means the ordinances of the City of Clarence, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

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

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars ($65.00) but not to exceed six hundred twenty-five dollars ($625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.

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

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CHAPTER 2

CHARTER

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

2.01 TITLE. This chapter may be cited as the charter of the City of Clarence, Iowa.[†]

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

(Code of Iowa, Sec. 372.4)

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

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

Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE**: Ordinance No. 86 adopting a charter for the City was passed and approved by the Council on July 14, 1976, and was published on July 17, 1976.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties
3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.

2. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.

3. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

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

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

1. Standard Civil Penalties.

   A. First offense – not to exceed $750.00

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

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

2. Special Civil Penalties.

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

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

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

(2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.

(3) The violation does not continue in existence for more than eight (8) hours.

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

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

1. The name and address of the defendant.

2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.

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

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

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no 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 Clarence as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

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

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer, and such other officers and employees as may be necessary and advisable except as allowed in Subsection 5.

(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(1)(a))

5. Insurance Policy in Lieu of Bond. In lieu of a bond, a public officer required to obtain a bond pursuant to Chapter 64 of the *Code of Iowa* may obtain an insurance policy in an amount not less than the amounts required of a bond.

(Code of Iowa, Sec. 64.3)

(Section 5.02 – Ord. 315 – Oct. 24 Supp.)

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

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

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

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

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

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

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

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

A. "Closed session" means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.

B. "Hybrid meeting" means a meeting involving both remote participation and in-person participation by members.

(Code of Iowa, Sec. 21.8(4)(a))

C. "Open session" means a meeting to which all members of the public have access.

(Code of Iowa, Sec. 21.2(3))

D. "Remote participation" means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.

(Code of Iowa, Sec. 21.8(4)(b))

E. "Reasonable notice" means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the

body holding the meeting, or if not such office exists, at the building in which the meeting is to be held.

(Code of Iowa, Sec. 21.4(1))

F. "Teleconference participation" means participation using audio conference tools involving multiple participants in at least two separate locations.

(Code of Iowa, Sec. 21.8(4)(c))

G. "Virtual meeting" means a meeting involving real-time interaction using integrated audio, video, and other digital tools, in which participants do not share a physical location.

(Code of Iowa, Sec. 21.8(4)(d))

2. Notice of Meetings. Reasonable notice of the time, date, and place of each meeting and its tentative agenda shall be given.

(Code of Iowa, Sec. 21.4)

3. 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)

4. 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)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

7. Electronic Meetings. A governmental body shall provide for hybrid meetings, teleconference participation, virtual meetings, remote participation, and other hybrid options for the members of the governmental body to participate in official meetings. A governmental body conducting a meeting pursuant to this subsection shall comply with all of the provisions of Chapter 21 of the *Code of Iowa*.

(Code of Iowa, Sec. 21.8)

(Section 5.06 – Ord. 316 – Oct. 24 Supp.)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Subsections 10-12 – Ord. 267 – Feb. 20 Supp.)

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

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

5.09 REMOVAL OF 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)

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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*.

(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
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports
7.09 Setoff Program Provisions

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, and 12C.1)

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund not to exceed fifty dollars ($50.00) 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.

(Subsection 3 – Ord. 252 – Mar. 18 Supp.)

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

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

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

4. Annual Statement.

(Code of Iowa, Sec. 24.2A(2))

A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 15, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-10) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. The proposed property tax hearing shall be set on a date on or after March 20 of the budget year immediately preceding the budget year for which the tax is being proposed. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published not less than 10 nor more than 20 days prior to the hearing, in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices.

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on a date no later than the date of publication of the notice.

(4) Failure of a newspaper to publish a required notice under this paragraph shall not be considered a failure of a political subdivision to provide required notice under this paragraph if all of the following conditions are met:

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Subsection 2, Paragraph B.

b. The political subdivision can demonstrate to the county auditor that the political subdivision provided sufficient time for the newspaper to publish the notice.

(Subsection 4 – Ord. 317 – Oct. 24 Supp.)

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

6. Notice of Hearing. Following, and not until the requirements, of Subsection 4 of this section, are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor.

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

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

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing, unless an additional tax levy is approved at a City election. 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])

(Section 7.05 – Ord. 300 – Aug. 23 Supp.)

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions

prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

(Code of Iowa, Sec. 384.22)

(Section 7.08 – Ord. 300 – Aug. 23 Supp.)

7.09 SETOFF PROGRAM PROVISIONS. This section shall establish policies and procedures for the City pursuant to Section 421.65 of the *Code of Iowa*, to allow the City to utilize and invoke the setoff program provisions of the State for collection of debts owed to the City and for which the City has provided the obligor with an opportunity to contest.

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

   A. "Department" means the Iowa Department of Revenue.

   B. "Obligor" means a person, not including a public agency, who has been determined to owe a qualifying debt.

   C. "Public agency" means a board, commission, department, including the Department of Revenue, or other administrative office or unit of the State or any other State entity reported in the Iowa Annual Comprehensive Financial Report, or a political subdivision of the State, or an office or unit of a political subdivision. Public agency does include the Clerk of the District Court as it relates to the collection of a qualifying debt. Public agency does not include the general assembly or Office of the Governor.

   D. "Public payment" means any claim a public agency owes to an obligor.

   E. "Qualifying debt" means any of the following:

      (1) Any debt which is assigned to the Department of Health and Human Services, or which is owed to the Department of Health and Human Services for unpaid premiums under Section 249.3(2)(a)(1) of the *Code of Iowa,* or which child support services is otherwise attempting to collect, or which foster care services of the Department of Health and Human Services is attempting to collect on behalf of a child receiving foster care provided by the Department of Health and Human Services.

      (2) Any debt which is in the form of a liquidated sum due, owing, and payable to the Clerk of the District Court.

      (3) Any liquidated sum certain, owing and payable to a public agency, with respect to which the public agency has provided the obligor an opportunity to protest or challenge the sum in a manner in compliance with applicable law and due process, and which has been determined as owing through the challenge or protest, or for which

the time period provided by the public agency to challenge or protest has expired.

2. Memorandum of Understanding. The City shall enter into a memorandum of understanding with the Department which shall outline the program guidelines for use of the State Setoff Program.

3. Qualifying Debt. The Clerk shall only certify to the Department qualifying debt as approved by the Department through the completion of a qualifying debt questionnaire and for which the City has provided appropriate documentation showing the City's legal authority for charging, implementing a fine or fee for violation of, or imposing costs related to the abatement of certain conditions when appropriate legal authority exists to the City. The qualifying debt questionnaire may be updated from time to time as required by the City to add or remove qualifying debt or as needed by the Department.

4. Due Process. Prior to submission of a debt to the Department the City shall provide the obligor due process as outlined in this section prior to the submission of a debt:

A. With respect to the qualifying debt, the City shall provide the obligor with 15 days' advance written notice to the obligor's last-known address. Such notice shall provide the obligor with a minimum period of 15 days in which they may file an appeal in writing to the Clerk.

B. Upon receipt of a written request for an appeal on a debt to be submitted to the Setoff Program the Clerk shall schedule a hearing with the Council for the next regularly scheduled meeting and notify the obligor of the hearing date and time at least five days in advance of the hearing.

C. At the time and date of the hearing, the Council shall hear any evidence brought forth by the obligor and shall examine the City's file regarding the matter. The Council shall make a ruling upon a majority vote of the members in attendance.

D. If the qualifying debt is upheld by the Council and the debt has not yet been paid by the obligor, the Clerk may certify the delinquency to the Department pursuant to the Section 421.65 of the *Code of Iowa* and the memorandum of understanding between the City and the Department.

(Section 7.09 – Ord. 305 – Apr. 24 Supp.)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

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

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

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

1. "Actual value added" means the actual value added as of the first year for which the exemption is received.

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

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

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

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

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses,

and distribution centers is eligible to receive a partial exemption from taxation for a period of five (5) years.

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

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

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

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

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

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

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

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

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

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

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty (30) days after such hearing, the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

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

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

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

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

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

CHAPTER 9

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
120	July 12, 1993	Clarence Urban Renewal Project Area
209	June 14, 2010	Clarence Urban Renewal Area No. 1
210	June 14, 2010	Clarence Urban Renewal Area No. 2
312	September 9, 2024	Amendment No. 2 to Clarence Urban Renewal Area No.1
313	September 9, 2024	Clarence Urban Renewal Area No. 3
312-A	November 13, 2024	Amendment No. 2 Subarea (Correcting)
313-A	November 13, 2024	Clarence Urban Renewal Area No. 3 (Correcting)

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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 years.
(Code of Iowa, Sec. 376.2)

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
(Code of Iowa, Sec. 372.14[1])

2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14[2])

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.
(Code of Iowa, Sec. 372.14[1])

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.
(Code of Iowa, Sec. 380.5 & 380.6[2])

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. City Treasurer
3. Library Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is $200.00 per month, plus $60.00 for each special meeting attended.

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties
16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

16.04 COMPENSATION. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of 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

CITY COUNCIL

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

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])

3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])

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

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

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

17.06 COMPENSATION. The salary of each Council member is $60.00 for each meeting of the Council attended, plus $60.00 for each special meeting attended.
(Code of Iowa, Sec. 372.13[8])

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CHAPTER 18

CITY CLERK

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

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

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

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

18.03 PUBLICATION OF MINUTES. Within 15 days following a regular or special meeting of the Council, the Clerk shall cause the minutes of the proceedings of the Council, including the total expenditure from each City fund, to be delivered to a newspaper of general circulation in the City for publication. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

(Section 18.03 – Ord. 318 – Oct. 24 Supp.)

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

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

18.05 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) or 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, except that ordinances and amendments may be published by posting in the following places:

Public Library
Municipal Building
Community State Bank

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than ten (10) days after the first date of posting. Unauthorized removal of the posted ordinance or amendment prior to the completion of the ten days shall not affect the validity of said ordinance or amendment. The Clerk shall note the first date of such posting on the official copy of the ordinance and in the official ordinance book immediately following the ordinance.

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of such officer's duty; furnish a copy to any citizen when requested upon payment of the fee set by Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments 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 and 5] and 380.7[5])

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

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

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

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

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

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

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

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

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

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

18.14 CITY FUNDS. The Clerk shall perform the following duties relating to City funds.

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 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 from special assessments.

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

7. Reconciliation. Reconcile depository statements with the Clerk'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.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer

19.01 APPOINTMENT. The Mayor shall appoint, subject to Council approval, a City Treasurer to serve for a term of four years.

19.02 COMPENSATION. The Treasurer is paid such compensation as specified by resolution of the Council.

19.03 DUTIES OF THE TREASURER.

1. Prepare a report for the Council using the Clerk's books.

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

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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 discretion 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 give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor, Council, City Clerk, Police Chief, or Fire Chief.

(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])

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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 Clarence Public Library. It is referred to in this chapter as the Library. ***(Ord. 242 – Feb. 17 Supp.)***

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of four 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 years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.

2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

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

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

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.

3. Charge of Affairs. To direct and control all affairs of the Library.

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

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

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

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

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

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

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

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

(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 percent (5%) in number of the electors who voted for governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies
22.04 Compensation
22.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations 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)

CHAPTER 23

PARKS AND RECREATION BOARD

23.01 Parks and Recreation Board Created
23.02 Board Organization
23.03 Duties of the Board
23.04 Reports
23.05 Rules

23.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds, and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

23.02 BOARD ORGANIZATION. The Board shall consist of five members, appointed by the Mayor with the approval of the Council, for overlapping terms of six years. Members shall be residents of the City, except that up to two members may be residents of the rural area surrounding the City (contiguous to Dayton Township). The Board shall annually choose from its membership a Chairperson, Vice Chairperson, and Secretary. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

23.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board has authority over the properties and personnel devoted to parks and recreation, subject to the limitation of expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for parks and recreation operations. The Board shall cooperate with the Mayor in the allotment of time of City employees for parks and recreation purposes. The Chairperson shall order supplies by the procedures established by the Council for all departments of the City, and payment will be made by check written by the Clerk for invoices submitted and approved by the Board.

23.04 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported quarterly to the Council in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board.

23.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

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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 Police Chief shall select, subject to the approval of Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

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

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

1. General. Perform all duties required of the Police Chief by law or ordinance.

2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.

3. Writs. Execute and return all writs and other processes directed to the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

6. Assist Officials. When requested, provide aid to other City officers, boards, and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.

10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

30.11 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 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 Fire District
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 meet the minimum training standards established by the State Fire Marshal and attend and actively participate in regular or special training drills or programs as directed by the Fire Chief.

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

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

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

35.06 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 the 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 firefighting efforts of the Fire Department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of 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 other 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, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause, and location, and an analysis of losses by value, type and location of buildings.

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

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

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

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

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

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

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

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

(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 36

HAZARDOUS SUBSTANCE SPILLS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36.05 NOTIFICATIONS.

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

2. Any other person who discovers a hazardous condition shall notify the Police Chief, who shall then notify the Department of Natural Resources.

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

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

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

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

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

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CHAPTER 37

EMERGENCY MEDICAL SERVICES DEPARTMENT

37.01 Establishment and Purpose
37.02 Coordinator
37.03 Coordinator's Duties
37.04 Emergency Personnel
37.05 Emergency Personnel Duties
37.06 Worker's Compensation and Hospitalization Insurance
37.07 Liability Insurance
37.08 Medical Emergencies Outside City Limits
37.09 Emergency Medical Personnel Association
37.10 Emergency Ambulance Service

37.01 ESTABLISHMENT AND PURPOSE. An Emergency Medical Services Department, hereafter known as the EMS department, is hereby established to respond to medical emergencies.

37.02 COORDINATOR. The Clarence Ambulance Service Volunteers' Association Board may elect or employ the ambulance coordinator, subject to the approval of the Council, or to fill a vacancy. The City Council may remove, suspend, or demote the EMS coordinator for neglect of duty, disobedience, misconduct, or failure to properly perform the duties of coordinator by written order setting out the reasons for removal, which shall be filed with the City Clerk. The Council shall, upon request in writing filed with the Clerk by the coordinator, hold a public hearing on the proposed action. ***(Ord. 301 – Apr. 24 Supp.)***

37.03 COORDINATOR'S DUTIES. The coordinator shall manage the EMS department. The coordinator shall command all operations of the department, ensure training, and be responsible for the care, maintenance, and use of all vehicles and equipment of the department. Subject to Council approval, the coordinator shall establish and maintain departmental rules and standard operating procedures to carry out the requirements of this chapter. The coordinator shall provide all personnel with a written copy of these rules and procedures. With the approval of the Council, the coordinator shall appoint personnel, fill vacancies among them, and may discharge them. The coordinator shall keep a record of the names, ages and residences of personnel and be responsible for their training and supervision, and shall maintain attendance records for activities.

37.04 EMERGENCY PERSONNEL. The coordinator shall appoint EMS personnel per established criteria. Prior to appointment and every three (3) years thereafter, personnel must pass a medical physical examination. Examination costs will be paid by the EMS department.

37.05 EMERGENCY PERSONNEL DUTIES. When scheduled by the coordinator, personnel shall report for duty immediately in the manner directed by the established rules and procedures. They shall be subject to call at any time. They shall obey strictly the commands of others who have been appointed by the coordinator to be in command temporarily. Personnel shall report for training as ordered by the coordinator.

37.06 WORKER'S COMPENSATION AND HOSPITALIZATION 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 emergency responders injured in the performance of their duties. All department personnel shall be covered by the contract.

37.07 LIABILITY INSURANCE. The Council shall contract to insure against liability of the personnel of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

37.08 MEDICAL EMERGENCIES OUTSIDE CITY LIMITS. The department shall answer calls to medical emergencies outside the City limits per the department's standard operating procedures, contracts, mutual aid and other agreements.

37.09 EMERGENCY MEDICAL PERSONNEL ASSOCIATION. Emergency medical response personnel may form an association and non-profit corporation to promote the welfare of emergency medical responders, emergency medical response capabilities and other civic and social duties as specified in association and corporation articles of incorporation.

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

1. Fees for the use of the ambulance and rescue service, and reasonably related emergency services furnished within or outside the City shall be adequate to cover all the operating costs of the service. Ambulance fees are as follows:

Procedure	Base Fee Schedule
A0426 – ALS Non-Emergency	$750.00
A0427 – ALS Emergency	$800.00
A0428 – BLS Non-Emergency	$600.00
A0429 – BLS Emergency	$700.00
A0433 – ALS-2 Emergency	$1,100.00
A0425 – Milage	$17.00

	Supplies Fee Schedule
A0382/A0398 – BLS/ALS Disposable Supplies	$75.00/$150.00
A0384 – Defibrillation Supplies	$100.00
A0394 – ALS IV Supplies	$185.00
A0422 – Oxygen & Supplies	$75.00
A0396 – Intubation	$100.00
A0998 – Ambulance Response & Treatment	$100.00
93005 – EKG 12 Lead	$75.00
93041 – EKG 3 Lead	$75.00

2. The Clerk or contracted billing service shall calculate and render bills for ambulance and rescue services and all reasonably related services rendered.

3. All ambulance and rescue service fees for reasonably related emergency services shall be due and payable upon presentation of a statement for said fees and charges to the user and/or recipient of the service, and shall be paid to the Clerk. With respect to any debt herein, the City shall provide the debtor fifteen (15) days advance written notice to the debtor's last-known address, affording the debtor a period of fifteen (15) days within which to protest or appeal the delinquency to the City Clerk. If the delinquency is upheld by the City Clerk, or the debtor has not paid the debt within fifteen (15) days of the date of notice, the City may certify the delinquency to the Iowa Department of Revenue for purposes of collection pursuant to Iowa Code 421.65.

(Section 37.10 – Ord. 306 – Apr. 24 Supp.)

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse
40.06 Disorderly Houses and Wrongful Drinking Establishments

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

(Section 40.03 – Ord. 278 – Jan. 22)

40.04 UNLAWFUL ASSEMBLY. (Repealed by Ordinance No. 278 – Jan. 22 Supp.)

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

(Code of Iowa, Sec. 723.3)

40.06 DISORDERLY HOUSES AND WRONGFUL DRINKING ESTABLISHMENTS.

1. Any building, room, or other structure within the corporate limits of the City where illegal gaming or illegal gambling of any kind is allowed or carried on, all houses or places of ill fame, or where persons resort for the purpose of prostitution, assignation, lewdness, or for the use of controlled substances as defined in the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*, or where prescription drugs are illegally kept, illegally sold, or illegally given away, are hereby declared disorderly houses and are prohibited, and shall be suppressed, and the keepers and inmates thereof punished as hereinafter provided.

2. Any building, room, or other structure within the City where intoxicating liquor or beer is illegally kept, illegally sold, or illegally given away are hereby declared to be wrongful drinking establishments and are prohibited, and shall be suppressed, and the keepers and inmates thereof punished, as hereinafter provided in Subsection 4.

3. Each person found in any building, room or other structure as defined in Subsections 1 or 2, whether male or female, or persons resorting thereto, shall be considered an inmate thereof within the meaning of subsection 4, and their presence in any such building, room or place at any hour of the day or night shall be *prima facie* evidence that they are inmates.

4. If any person is guilty of keeping or maintaining a building, room, or other structure as described in Subsection 1 or 2, or is an inmate thereof , or is in any way connected with or in any way contributes to the support of or knowingly owns or is interested as proprietor or landlord in such building, room, or other structure, that person shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in this Code of Ordinances.

5. It is not necessary to prove payment in order to prove a sale within the meaning and intent of this section.

6. Any person violating this section shall be guilty of a misdemeanor. Each day a violation occurs shall constitute a separate offense.

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.

2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.

3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, medical examiner, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, medical examiner, or

firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically. ***(Ord. 279 – Jan. 22 Supp.)***

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

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

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

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

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

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

41.12 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:

A. "Consumer fireworks" means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association ("APA") Standard 87-1:

(1) First-class consumer fireworks:

a. Aerial shell kits and reloadable tubes;

b. Chasers;

c. Helicopters and aerial spinners;

d. Firecrackers;

e. Mine and shell devices;

f. Missile-type rockets;

g. Roman candles;

h. Sky rockets and bottle rockets;

i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.

(2) Second-class consumer fireworks:

a. Cone fountains;

b. Cylindrical fountains;

c. Flitter sparklers;

d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;

e. Ground spinners;

f. Illuminating torches;

g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;

h. Wheels;

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

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

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

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State

Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

A. Personal Injury: $250,000.00 per person

B. Property Damage: $50,000.00

C. Total Exposure: $1,000,000.00

3. Consumer Fireworks. It is unlawful for any person to use or explode consumer fireworks within the City outside of the following dates:

A. State Code Dates. Allowed by Section 364.2(6) of the *Code of Iowa*:

(1) July 3 between the hours of 9:00 a.m. and 10:00 p.m.

a. Except when July 3 falls on a Saturday or Sunday preceding July 4, in which fireworks shall be allowed between the hours of 9:00 a.m. and 11:00 p.m.

(2) July 4 between the hours of 9:00 a.m. and 11:00 p.m.

(3) December 31 between the hours of 9:00 a.m. and 12:30 a.m. on the immediately following day.

B. City Allowed Dates.

(1) No other dates or times permitted.

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

(Section 41.12 – Ord. 324 – Jun. 25 Supp.)

41.13 PUBLIC DANCES.

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

A. "Public dance hall" means any place open to the public where dancing is allowed, except the North Cedar Community School buildings.

B. "Public dance" means a dance which is or may be attended or patronized by the public in a dance hall.

2. Security Personnel in Attendance. No person shall conduct any public dance where alcohol is served without having security personnel in attendance during all hours of the dance. The security personnel shall be attired in a regulation uniform of security personnel.

3. Duties of Security Personnel. It shall be the duty of the security personnel to exercise complete supervision over any public dance to which such personnel is assigned for duty, to maintain peace and good order in the public dance hall and adjoining area by monitoring those in attendance/those working at the event and to notify local law enforcement of any violations of the laws of Iowa or the ordinances of the City of Clarence taking place.

(Subsections 2-3 – Ord. 254 – Jan. 19 Supp.)

41.14 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in

the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

41.15 FAILURE TO ASSIST. A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance. ***(Ord. 283 – Jan. 22 Supp.)***

(Code of Iowa, Sec. 727.12)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft
42.07 Other Public Property Offenses

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
   - A. Section 21.10 – Injury to Books or Property
   - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
   - A. Section 105.07 – Littering Prohibited
   - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
   - A. Section 135.01 – Removal of Warning Devices
   - B. Section 135.02 – Obstructing or Defacing
   - C. Section 135.03 – Placing Debris On
   - D. Section 135.04 – Playing In
   - E. Section 135.05 – Traveling on Barricaded Street or Alley
   - F. Section 135.08 – Burning Prohibited
   - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
   - A. Section 136.11 – Interference with Sidewalk Improvements
   - B. Section 136.15 – Fires or Fuel on Sidewalks
   - C. Section 136.16 – Defacing
   - D. Section 136.17 – Debris on Sidewalks

E. Section 136.18 – Merchandise Display

F. Section 136.19 – Sales Stands

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CHAPTER 43

DRUG PARAPHERNALIA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

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

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Expert Testimony. Expert testimony concerning its use.

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

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

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Containers in Motor Vehicles
45.04 Open Containers

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

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

(Code of Iowa, Sec. 123.47)

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

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

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

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

(Section 45.01 – Ord. 260 – Jan. 19 Supp.)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(51) and (52) of this Code of Ordinances.]*

45.04 OPEN CONTAINERS. Possession Prohibited. It is unlawful for any persons to possess any open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage on any public street, ground, highway, sidewalk, alley, or public right of way in the City. A person shall not possess any open or unsealed bottle, can, jar or any other receptacle containing an alcoholic beverage in any public place within the City, except premises covered by a license or permit, and when applicable a public right of way easement agreement. This section shall not apply to the Clarence City Park. Any person violating any provisions of this section may be fined not to exceed one hundred dollars ($100) plus appropriate court costs and surcharges. ***(Ord. 232 – Jan. 15 Supp.)***

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency

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

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

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

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

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

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

   E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has

access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

(Subsection F – Ord. 266 – Feb. 20 Supp.)

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 10:00 p.m. on Sunday, Monday, Tuesday, Wednesday, and Thursday evenings to 5:00 a.m. of the following day and between the hours of 12:00 midnight on Friday and Saturday evenings to 5:00 a.m. of the following morning.

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

A. The minor is accompanied by a responsible adult as defined in 46.01(1)(F) or an adult at least twenty-one (21) years of age authorized by a parent of such minor to take said parent's place in accompanying said minor for a designated period of time and purpose. Such permission authorization shall be in written form, shall specify the particular reason or event that the minor is permitted to be with the authorized adult, signed and dated by the minor's parent within twenty-four (24) hours of the beginning of the period for which the authorization is given which period shall not be longer than seventy-two (72) hours except for extenuating circumstances clearly stated, carried by the authorized adult and shall be presented to a peace officer upon request. ***(Ord. 266 – Feb. 20 Supp.).***

B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.

C. The minor is present at or is traveling between home and one of the following:

(1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;

(2) Minor's place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;

(3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;

(4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.

D. The minor is on an emergency errand for a responsible adult;

E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

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

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

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

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

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

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states

that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

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

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under twenty-one (21) 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 twenty-one years of age shall not constitute a violation of this section if said person possess 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. 302 – Apr. 24 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 Use of Drives Required
47.03 Fires
47.04 Littering
47.05 City Park Closed
47.06 Camping
47.07 Downtown Park Closed

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 CITY PARK CLOSED. No person shall enter or remain within the Clarence City Park between the hours of 9:00 PM and 6:00 AM with the following exceptions:

1. Actively walking on the lighted concrete sidewalk walking trail, taking the most direct route into the park without loitering to walk on the lighted concrete sidewalk walking trail or taking the most direct route out of the park without loitering from walking on the lighted concrete sidewalk walking trail.

2. Playing in or attending a scheduled baseball or softball game actively taking place in City Park.

3. Hosting or attending an event or gathering at one of the shelters in City Park provided the shelter was rented from the City for the event/gathering.

4. Hosting or attending an event or gathering inside the park provided a special use permit was obtained from City Hall and signed by the Mayor of Clarence.

5. Attending any event in the City Park which was approved by a majority vote of the City Council members present during a council meeting.

(Section 47.05 – Ord. 258 – Jan. 19 Supp.)

47.06 CAMPING. No person shall camp in any portion of a park.

47.07 DOWNTOWN PARK CLOSED. No person shall enter or remain within the downtown park located on the southwest corner of Lombard Street and 6th Avenue between the hours of 9:00 PM and 6:00 AM. ***(Ord. 258 – Jan. 19 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 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure
50.08 Penalties
50.09 Founded Calls for Service Charged to Nuisance Property
50.10 Adult Establishments

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 list shall not be deemed or construed to be exhaustive, limiting, or conclusive. Examples of nuisances are:

1. All diseased animals running at large.

2. All ponds or pools of stagnant water.

3. Carcasses of animals not disposed of within 24 hours after death, as provided by law.

4. Accumulations of refuse including junked, abandoned or inoperable vehicles.

5. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes, or other substances.

6. All noxious weeds and other rank growth upon public or private property.

7. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.

8. The use of a common public drinking cup or roller towel.

9. The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person.

10. All gambling devices, slot machines and punch boards.

11. All 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, Subsection 5 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. 675.2[6])

(Subsection 11 – Ord. 265 – Feb. 20 Supp.)

12. All places where intoxicating liquors are kept for sale, barter or distribution in violation of law, and all liquors, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place.

13. Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse or any other immoral purpose.

14. Any violation of Section 105.03 of the Code of Ordinances.

15. All snow and ice not removed from public sidewalks twelve hours after the snow and ice has ceased being deposited thereon.

16. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.

17. All limbs of trees which are less than 8 feet above the surface of any public sidewalk or street.

18. All wires which are strung less than 15 feet above the surface of the ground.

19. All buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which are so situated as to endanger the safety of the public.

20. All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that permitted by this code.

21. All use or display of fireworks except as permitted by law or this code.

22. All loud or unusual and unnecessary noises.

23. Obstruction and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are permitted by this code.

24. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets and sidewalks.

25. Failure to pay to the City of Clarence, when due, any fee or fine required by the Code of Ordinances.

26. Maintaining any violation of the Code of Ordinances.

27. Failure to install any improvement required by provisions of the Municipal Code, or any memorandum of agreement.

28. All weeds, vines, brush, dead or diseased trees, rank growth or objectionable vegetation which constitutes a health, safety, fire hazard, is injurious to the senses, and objectionable to the free use of property or interferes with the comfortable enjoyment of life or property.

29. All trees, including dead or diseased, fallen trees or limbs or leaning trees, which constitutes a hazard of blocking or damming any stream over which there is a bridge, during a heavy rain or a flooding event.

30. Failure to secure areas, buildings or places against accidental or unauthorized access where such access threatens the health or safety of citizens and especially where such an area or place is an attraction to the immature citizen. Fences, railings and other guards shall be well-built, kept in good repair, be at least 48 inches from top to ground and adequate height to perform their function and have no sharp points,

spikes, hooks, projection barbs or other devices that are in themselves hazardous, except that wire may be used to enclose agricultural land.

31. All open cisterns or cisterns with inadequate or improper and unsafe coverings, open basements, holes, trenches or other excavations not properly marked and precautionary measures taken to prevent injury to the public, except under such conditions as are provided by this Code of Ordinances.

32. Any building or location which harbors vectors, vermin or pests.

33. The pollution of any well, stream, creek, lake, river or body of water by the dumping or throwing of any sewage, industrial waste, carcass, garbage, refuge, offal or manure, except with the consent and under the direction of the DNR and the dumping or throwing of any such items upon any private or public property.

34. Any downspout, trough, eave, awning or other device which causes snow or ice to accumulate on any public drive, road, alley, walk or way.

35. All trees or parts of trees which are dead, decayed, diseased or dying.

36. Any abandoned or otherwise unattached refrigerator, icebox or similar container with doors, outside of buildings and accessible to children.

37. Problem Area Nuisance. A problem area nuisance exists:

A. When one or more of the following acts are committed within a period of twelve consecutive months upon a property, or within one thousand five hundred feet of the property, by an interested party or their permittee(s):

(1) Manufacture or delivery of a controlled substance in violation of Iowa Code Chapter 124;

(2) Kidnapping as defined in Iowa Code Chapter 710;

(3) Arson as defined in Iowa Code Chapter 712;

(4) Burglary as defined in Iowa Code Chapter 713;

(5) Robbery as defined in Iowa Code Chapter 711;

(6) Sex Abuse as defined in Iowa Code Chapter 709;

(7) Terrorism as defined in Iowa Code Chapter 708.6;

(8) Willful injury as defined in Iowa Code Chapter 708.4;

(9) Sexual exploitation of a minor as defined in Iowa Code Section 728.12;

(10) Felony gambling in violation of Iowa Code Chapter 725;

(11) Felony criminal mischief as defined in Iowa Code Chapter 716;

(12) Animal fighting in violation of Iowa Code Section 717B.7; and

(13) A health code, environmental, or solid waste violation that falls within the definition of a nuisance under Chapter 50 of the Clarence Municipal Code.

B. When two or more of the following acts are committed within a period of twelve consecutive months upon a property, or within one thousand five hundred feet of the property, by an interested party or their permittee(s):

(1) Possession of a controlled substance in violation of Iowa Code Chapter 124;

(2) Carrying a dangerous weapon as defined in Iowa Code Chapter 724.4;

(3) Riot as defined in Iowa Code Section 723.1;

(4) Serious or aggravated misdemeanor criminal mischief as defined in Iowa Code Chapter 716;

(5) Prostitution as defined in Iowa Code Section 725.1;

(6) Serious or aggravated misdemeanor assault as defined in Iowa Code Chapter 708;

(7) Serious or aggravated misdemeanor theft as defined in Iowa Code Chapter 714;

(8) Misdemeanor gambling as defined in Iowa Code Chapter 725;

(9) False imprisonment as defined in Iowa Code Section 710.7;

(10) An unpermitted or illegal use under of the Clarence Municipal Code;

(11) Unlawful discharge of a firearm in violation of Chapter 41 of the Clarence Municipal Code; and

(12) A social gathering involving underage consumption or possession of alcohol in violation of Iowa Code Chapter 123; disorderly conduct; assault; threats of physical assault directed at neighbors; or dangerous driving.

C. When three or more of the following acts are committed within a period of twelve consecutive months upon a property, or within one thousand five hundred feet of the property, by an interested party or their permittee(s):

(1) Health code violation;

(2) Environmental or solid waste violation;

(3) Unlawful assembly in violation of Chapter 40 of the Clarence Municipal code;

(4) Simple misdemeanor criminal mischief in violation of Chapter 42 of the Clarence Municipal code;

(5) Simple misdemeanor assault in violation of Chapter 40 of the Clarence Municipal Code;

(6) Simple domestic assault in violation of Iowa Code Chapter 708.2A;

(7) Disorderly conduct in violation of Chapter 40 of the Clarence Municipal Code;

(8) Criminal trespass in violation of Chapter 43 of the Clarence Municipal Code;

(9) Public intoxication in violation of Iowa Code Chapter 7___.

(10) Animal protection and control violations of Chapter 55 of the Clarence Municipal Code.

The above references to provisions of the Iowa Code or the Clarence Municipal Code should not be interpreted to mean that a prosecution of the specific charge is a necessary prerequisite to an action under this chapter nor shall it be interpreted to mean that proof of the action beyond a reasonable doubt is required.

(Ord. 239 – Feb. 16 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. Weeds (See Chapter 52)
4. Storage and Disposal of Solid Waste (See Chapter 105 and 106)
5. Trees (See Chapter 151)
6. Storm Water Management (See Chapter 97)
7. Animal Control (See Chapter 55)

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

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

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

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

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

† **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.

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

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

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

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

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

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

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

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

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

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars ($500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law. ***(Ord. 222 – Feb. 14 Supp.)***

(Code of Iowa, Sec. 364.13)

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

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

50.08 PENALTIES.

1. The following are penalties that may be imposed for violating this chapter. These possible penalties may be imposed in addition to, and not in lieu of, any sanctions specified in an abatement plan.

A. A violation of this chapter may be punished as a simple misdemeanor in accordance with the penalties set forth in the Iowa Code.

B. A violation of this chapter may be punished as a municipal infraction with a scheduled fine of two hundred fifty dollars for the first offense, five hundred dollars for a second offense, and seven hundred fifty dollars for a third or subsequent offense.

(Ord. 239 – Feb. 16 Supp.)

50.09 FOUNDED CALLS FOR SERVICE CHARGED TO NUISANCE PROPERTY. With respect to a Property for which a Notice of Violation has been duly served, the City shall cause to be charged to the Property Owner all costs associated with Founded Calls for Service to the Property, beginning on the date specified in the Notice of Violation and continuing thereafter until the expiration of one year from the date on the Notice of Violation. This provision shall not be construed so as to preclude an additional determination under Section 50.02 that the Property is a Nuisance Property due to additional Nuisance Activity. In the event of such an additional finding under Section 50.02, the twelve month period shall run from date of the most recent Notice of Violation. ***(Ord. 239 – Feb. 16 Supp.)***

50.10 ADULT ESTABLISHMENTS.

1. As used in this section, "adult establishment" means any business that provides nude or topless dancing or operates any other adult-oriented business.

2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:

A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.

B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.

C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

(Code of Iowa, Sec. 657.12)

(Section 50.10 – Ord. 314 – Oct. 24 Supp.)

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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. "Hobby vehicle" means an unlicensed motor vehicle, including but not limited to antique car restoration, dragsters, stock cars, Indy-type racers, midget racers, all-terrain vehicles, dune buggies, go-carts, competition pulling garden tractors or competition pulling farm type tractors. For the purpose of this chapter, boat trailers, common utility trailers, golf carts, camping trailers or snowmobile trailers are not considered hobby vehicles.

2. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles 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.

3. "Junk vehicle" means any motor vehicle stored within the corporate limits of the City for a period of time in excess of seventy-two hours, 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 Parts. Any vehicle with a broken or loose fender, door, bumper, hood, hood ornament, door 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 or piece of machinery, which has become the habitat for rats, mice, or snakes, or any other vermin or insects.

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

E. Inoperable Vehicle. Any motor vehicle if it:

(1) Lacks current registration. A vehicle that is licensed with storage plates does not have "current registration"; or

(2) Lacks an engine or two or more wheels or other parts, the absence of which renders the vehicle unfit for legal operation on the street and highways; or

(3) Cannot be started and driven around one City block.

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.

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

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

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle or hobby 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 or hobby 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 or hobby vehicle stored within:

1. Structure. Any junk or a junk vehicle or hobby vehicle stored within a garage or other enclosed structure;

2. Race Car. Only from March 1 to November 1, a person may store outdoors a motor sports vehicle used in sanctioned racing events, hereafter "race car," that would otherwise constitute a "junk vehicle" under the following conditions:

A. Such "race car" shall be operable and used in sanctioned racing events.

B. Only one "race car" shall be stored outdoors on any one lot at any one time.

C. The owner shall cover completely such "race car" when it is being stored outdoors.

D. A "race car" shall not include any motor vehicle used in any demolition racing event, whether sanctioned or unsanctioned.

From November 2 through the last day in February, all "race cars" must be stored indoors.

3. Other. Vehicles that are nonoperable solely by reason of repair work being done thereon, provided that the following conditions are met:

A. The vehicle is owned by the occupier of the premises and registered to said person at that address, or is owned by and registered to a member of the person's immediate family;

B. The period of said repair work does not exceed thirty (30) days in duration;

C. No more than two vehicles in need of repair are situated on the premises at the same time; and

D. The work is conducted in a hard surface area.

The 30-day limit referred to in paragraph B may, at the discretion of the Council, be extended if the owner can demonstrate that it is impossible to complete the ordinary and routine repairs within 30 days because of the unavailability of parts or other emergency beyond the control of the owner.

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle or hobby 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 52

MOWING OF PROPERTIES

52.01 Mowing of Properties
52.02 Violation
52.03 Notice
52.04 Failure to Comply
52.05 Publication of Notice
52.06 Exceptions

52.01 MOWING OF PROPERTIES. Any property within the City, including residential, commercial, or industrial zoned districts, is required to be mowed any time the vegetation (grass and weeds) reaches a height of more than eight (8) inches. The property owner and occupant are also jointly and severally responsible for mowing the abutting space between the lot line and the curb line or edge of the traveled portion of the street right-of-way and one-half of any alley abutting the property.

52.02 VIOLATION. Violation of this chapter will be determined by visual observation and measurement. When a violation has occurred, the City will serve notice upon the owner, owner's agent, or occupant of the property to abate the nuisance by posting the notice in a conspicuous place upon the premises where the nuisance exists. ***(Ord. 298 – Aug. 23 Supp.)***

52.03 NOTICE. The notice shall set forth that the property owner, owner's agent, or occupant of the property has a specified and reasonable amount of time which shall be no less than 48 hours and no longer than 96 hours to have the vegetation cut so that the height conforms with this chapter. The notice shall set forth the address of the property in question and shall instruct the property owner that the notice constitutes notice for the balance of the mowing season and that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given.

(Ord. 298 – Aug. 23 Supp.)

52.04 FAILURE TO COMPLY. If the property owner fails to cut the vegetation so that it conforms with this chapter within the time period set forth in the notice, the City may cause the vegetation to be cut and the cost of this action will be assessed against the property. The fee for this service will be set by resolution.

52.05 PUBLICATION OF NOTICE. Annual spring publication of the ordinance codified in this chapter in an official newspaper shall serve as notice to property owners. The City is authorized to respond to violations without additional written notice.

52.06 EXCEPTIONS. This chapter pertains to all residential, business and industrial land within the City limits but excludes agricultural land within the City.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Rabies Vaccinations Required
55.03 Report of Animal Bites Required
55.04 Animal Running at Large
55.05 Livestock and Poultry Prohibited
55.06 Animal Neglect
55.07 Livestock Neglect
55.08 Abandonment of Cats and Dogs
55.09 Wild, Exotic or Dangerous Animals Prohibited
55.10 Damage to Property or Interference
55.11 Barking Dogs
55.12 Removal of Excrement
55.13 Number of Animals Regulated
55.14 Impoundment
55.15 Citations
55.16 Nuisances
55.17 Seizure, Impoundment, and Disposition of Vicious Animals
55.18 Pet Awards Prohibited
55.19 Penalties
55.20 Tampering With A Rabies Vaccination Tag
55.21 Tampering With An Electronic Handling Device

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

1. "Adequate food and water" means the following: pet animals shall be fed at least once a day and shall be provided potable water at all times except when under special veterinary care. The food and water shall be free from contamination, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food and water containers shall be accessible to the pet animal and located to minimize contamination by excreta. These containers shall be cleaned regularly. Disposable food containers may be used if discarded after use. Self-feeders and waterers may be used if cleaned regularly.

2. "Adequate shelter" means structurally sound and weatherproof shelter, made of solid sides, roof, and floor, and which is off the ground, which provides access to shade from the direct sunlight and protections from exposure to weather conditions.

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

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

4. "Animal" means a living organism. other than human beings, birds, fish or invertebrates, domesticated or wild, and distinguished from other living things by structural and functional characteristics such as locomotion.

5. "Animal control officer" means any humane officer employed by a Cedar County animal shelter under contract with the City, any animal control officer under jurisdiction of the Police Chief, or any other person authorized by the Mayor to enforce the provisions of this chapter by means of appropriate police powers.

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

(Code of Iowa, Sec. 162.2)

7. "Boarding kennel" means a place or establishment, other than an animal shelter, where dogs, cats or other animals, not owned by the proprietor, are sheltered, fed and watered in return for consideration.

8. "Business" means any enterprise relating to any of the following:
(Code of Iowa, Sec. 717E.1)

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

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

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

9. "Cats" means all members of the feline species regardless of sex.

10. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.
(Code of Iowa, Sec. 717.B1)

11. "Commercial kennel" means a kennel that performs grooming, boarding, or training services for dogs and cats in return for consideration.

12. "Dog" means and includes all members of the canine species *Canis Familiaris*, male or female, whether neutered or not.

13. "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.

14. "Fair" means any of the following:
(Code of Iowa, Sec. 717E.1)

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

B. An exhibition of agricultural or manufactured products.

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

15. "Fur-bearing animals" means the following (which are declared to be fur-bearing animals for the purpose of regulation and protection under this chapter): beaver, badger, mink, otter, muskrat, raccoon, skunk, opossum, spotted skunk or civet cat, weasel, coyote, bobcat, wolf, groundhog, red fox, gray fox and any other animal defined as fur-bearing by the Council.

16. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
(Code of Iowa, Sec. 717E.1)

17. "Injury" means an animal's disfigurement; the impairment of an animal's health; or an impairment to the functioning of an animal's limb or organ, or the loss of an animal's limb or organ.
(Code of Iowa, Sec. 717.B1)

18. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.
(Code of Iowa, Sec. 717.1)

19. "Owner" means any person having a responsibility of property in an animal, or who keeps or harbors an animal (or has it in his or her care), or who acts as its custodian, or who knowingly permits an animal to remain for three or more days on or about any premises owned or occupied by such person.

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

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

21. "Pet shop" means an establishment where any dog, cat, rabbit, rodent, fish (other than live bait), bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale.

22. "Pound" means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

(Code of Iowa, Sec. 162.2)

23. "Research facility" means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

(Code of Iowa, Sec. 162.2)

24. "Veterinarian" means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.

(Code of Iowa, Sec. 717.B1)

25. "Vicious animal" means any animal, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, which has been found to posses such propensities by the Council, after hearing. ***(Ord. 274 – Jan. 22 Supp.)***

(Section 55.01 – Ord. 273 – Feb. 21 Supp.)

55.02 RABIES VACCINATION REQUIRED. All dogs, cats, and ferrets shall be inoculated against rabies by a licensed veterinarian after attaining the age of six (6) months. Such inoculation shall be re-administered at least once every three (3) years for dogs and cats, and once a year for ferrets. An owner acquiring a dog, cat or ferret without a current rabies inoculation certificate shall have the animal inoculated within thirty (30) days after the animal was acquired or the animal reaches the age of six (6) months, whichever occurs first. The owner or custodian of any animal required to be inoculated against rabies shall keep a current rabies tag securely attached to a substantial collar which shall be worn by the animal at all times.

55.03 REPORT OF ANIMAL BITES REQUIRED. Any person having knowledge of any dog, cat or ferret bite or scratch which has caused a skin abrasion upon any person or for which the victim may or may not have required medical attention, which bite or scratch occurred within the City, shall immediately report such fact to the City of Clarence Police Department.

1. This section shall not apply if said bite or scratch occurred while the animal was being treated, confined, or housed within a veterinary hospital or clinic and that facility knows such animal is currently inoculated for rabies and has the certifications to prove such inoculation. In such cases reporting of the bite or scratch shall be discretionary with the veterinary hospital or clinic.

2. Any animal that has been involved in biting a person or other animal must be quarantined for ten days from the date of the bite. Such confinement may be at the premises of the owner if deemed appropriate and sufficient safeguards are provided to the discretion of the animal control officer and/or Clarence Police Department. If an animal is not quarantined at the owner's premises it shall be confined at the animal shelter or at a licensed veterinary hospital. All costs of the quarantine shall be the owner's liability. This section shall not apply to law enforcement canines.

3. The owner of an animal that has been reported as having inflicted a bite on a person or other animal shall, on demand, produce the animal for examination and quarantine to an animal control officer or police officer. It is unlawful to fail to or refuse to produce such an animal. Failure to produce an animal demanded shall subject the owner or custodian to arrest if probable cause exists to believe the animal inflicted a bite on a person or other animal.

4. It is unlawful for any person to remove any animal which has been quarantined pursuant to this chapter from its place of quarantine without the express consent of an animal control officer and/or Clarence Police Department.

55.04 ANIMAL RUNNING AT LARGE.

1. It is unlawful for the owner or custodian of any dog, cat, or other animal to fail to keep the same from running at large in the City or City Cemetery. For the purpose of this chapter an animal shall not be deemed running at large, even if the animal is not restrained, as long as one of the following situations applies:

(Ord. 245 – Feb. 17 Supp.)

A. When the animal is restrained either upon the premises of the owner or custodian or upon another's premises with the permission of the owner of that premises, so long as the animal is restrained in such a manner that it cannot enter on the public streets, sidewalks, alleys, other public areas, or property not owned by the owner, custodian, or permittee.

B. When the animal is confined or restrained upon the premises of the owner or custodian within a secured building, or within a secured pen, enclosure or similar structure which has secured sides, bottom, and top such that the animal cannot escape or within fencing or similar means secured such that the animal cannot escape and which is fastened by as adequate locking device.

C. When an animal is enclosed within an automobile or other vehicle of its owner or custodian such that it cannot escape and such that said confinement does not endanger the animal's health or well-being.

D. When the animal is being walked off the premises of its owner or custodian so long as the animal is on a leash not more than six feet in length and under the control of a person competent to restrain and control the animal.

E. When the animal is properly housed in a veterinary hospital or registered kennel.

2. Notwithstanding any provision to the contrary, animals injured or killed on or along public streets or public right-of-ways shall be deemed running at large. The animal control officer or Cedar County Sheriff shall remove all such animals and at his or her discretion take such an animal needing medical attention to a veterinarian or animal shelter. The owner or custodian of such animal shall be responsible and liable for the expenses of medical treatment and care as well as impoundment fees and any other penalties imposed by this chapter.

3. Every female dog or cat in heat shall be confined in a building or secure enclosure during the period of heat, in such a manner as will prevent the animal from coming into contact with other animals unless the animal is used in a planned breeding situation. An animal is deemed to be in heat when it is in an estrogen state or ovulating. Nothing is this subsection shall be construed to prohibit exercising the animal provided the animal is restrained on a leash or similar restraint not more than six feet in length and is under the control of a person competent to restrain and control the animal or from transporting such animal within a motor vehicle.

55.05 LIVESTOCK AND POULTRY PROHIBITED .

1. It is unlawful to maintain, keep or harbor any cattle, swine (except Vietnamese or Asian potbellied pigs), sheep, llamas, horses, jacks, goats, guinea fowl, ostriches, poultry (domestic chickens, turkeys, geese, and ducks), or similar domestic animals raised for home use or for profit within the City limits unless the property upon which such animals are maintained, kept or harbored is zoned agricultural property. This section shall not apply to a bona fide zoological garden, pet shop, educational institute, circus, carnival, or veterinary hospital treating such animals.

2. It is unlawful for any person to ride any animal upon the public private sidewalks within the City, and no person shall ride any animal upon a public street or right-of-way during the hours of sunset to sunrise except for public parades for which a permit has been issued by animal control officer and/or Clarence Police Department.

55.06 ANIMAL NEGLECT.

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

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

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

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the

animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

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

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

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

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

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

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

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

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

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

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

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

(Section 55.06 – Ord. 273 – Feb. 21 Supp.)

55.07 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)

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

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.

2. The delivery of a cat or dog to an animal shelter or that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the *Code of Iowa*.

3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

(Section 55.08 – Ord. 273 – Feb. 21 Supp.)

55.09 WILD, EXOTIC OR DANGEROUS ANIMALS PROHIBITED.

1. It is unlawful for any person to own, possess, harbor, maintain, sell or traffic in any of the following wild, exotic or dangerous animals: raccoons, porcupines, skunks, badgers and other similar fur-bearing animals except ferrets.[†]

2. Any wild, exotic or dangerous animal within the City in violation of this section is deemed a public nuisance per se. If a wild, exotic or dangerous animal is found to be roaming at large within the City, it may, at the discretion of the Police Chief or animal control officer, be destroyed immediately without prior notice to the owner thereof. The City and its agents shall be under no duty of obligation to capture or otherwise confine the animal.

3. Any person found to be keeping, sheltering, harboring or maintaining a wild, exotic or dangerous animal in violation of this section is subject to the animal's immediate seizure as contraband. Any animal so seized shall be held for three business days. If the owner has not petitioned the court regarding disposition of the animal and served notice of the pendency of the owner's petition for disposition of the animal on the humane society within that time period, the animal shelter may euthanize the animal or remove it from the City. If necessary, the animal control officer or deputy may impound a wild, exotic or dangerous animal at another facility. The animal's owner shall be responsible for all costs and expenses incurred by the animal shelter or the City which arise as a result of the seizure and impoundment of a wild, exotic or dangerous animal. Under no circumstances shall a wild, exotic or dangerous animal be returned to or placed with a non-exempt entity within the City limits. If a wild, exotic or dangerous animal is ever again found to be within the City in violation of this section, it shall be immediately confiscated and disposed of as the humane society deems appropriate.

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

55.10 DAMAGE TO PROPERTY OR INTERFERENCE. No owner of an animal shall allow such animal to damage, injure, or destroy any shrubbery, plants, flowers, grass, fence or anything whatsoever upon public or private property thereby causing damage to or interference with the premises.

55.11 BARKING DOGS. It is unlawful to keep or harbor any dog that, by frequent, regular, habitual, or continued barking, yelping, or howling, causes serious annoyance or disturbance to the surrounding neighborhood.

55.12 REMOVAL OF EXCREMENT.

1. An owner shall keep all structures, pens or yards wherein dogs or cats are confined, clean, devoid of vermin and free of odors arising from excrement. This shall be done on a routine and/or daily basis.

2. It is unlawful for an owner to permit an animal to discharge excrement upon any public property, common area, common thoroughfare, street, alley, play area, park or private property unless the excrement is immediately picked up and disposed of in an appropriate refuse container.

3. Animal excrement shall not be placed in storm sewers or street gutters, but shall be picked up and disposed of in a sanitary manner in an appropriate refuse container.

55.13 NUMBER OF ANIMALS REGULATED.

1. It is unlawful for any person to keep or maintain at any one location within the City more than four (4) of the following types of animals, those being dogs, cats, ferrets, and pot belly pigs; and of those four, no more than three shall be of the same species. This limitation applies to animals that are more than six months old or animals that are from more than one litter that are more than three months old. This limitation shall not apply to any person provided that person has applied and been approved for the proper kennel license through the State of Iowa and has complied with the State requirements.

2. Indoor pets such as gerbils, hamsters, guinea pigs, mice, birds, snakes and reptiles, and similar animals normally maintained as pets in an enclosure inside of a dwelling are not prescribed by this section unless specifically regulated by other sections.

3. If a person is found to be keeping more than four animals without the permit required by this section, the excessive number of animals may be immediately removed from the property and impounded. Any such impounded animals shall be held for seven days and if the owner has not either complied with the court for the return of the animals by the end of the seventh day, the animal shelter shall seek to permanently place the animals or euthanize such animals.

55.14 IMPOUNDMENT.

1. The City may establish and maintain a municipal animal shelter or the City may contract with any nonprofit incorporated society or association which shall provide and maintain an animal shelter for the enforcement of this chapter. It shall be the duty of the persons authorized by the City to operate such animal shelter to supervise and control such facility, to cause the shelter to be kept in a sanitary

condition and free from offensive odors, to provide for adequate food, water, and shelter, to provide for the collection of animals not redeemed, and to assist in the enforcement and operation of this chapter. The provisions of this chapter shall be enforced by any animal control officer and by members of the Clarence Police Department.

2. Impoundment Procedure. Unrestrained animals found running at large, nuisance animals, neglected animals, abandoned animals, and dogs or cats running at large without rabies vaccination tags shall be taken and impounded in the animal shelter and there confined in a humane manner.

3. Notice. Upon impounding an animal the owner or custodian of the animal shall be given a written notice of the impoundment authority within two days and the owner shall then have five days to redeem the animal not counting the day of impoundment. If an impounded animal is not displaying a vaccination tag pursuant to Section 55.02 the impoundment authority shall have no obligation to search for or provide notice to the owner or custodian.

4. Claim Fees. A person claiming an impounded dog or cat shall pay an impoundment fee of sixty dollars ($60.00) on the first impoundment, eighty dollars ($80.00) for the second impoundment, one hundred dollars ($100.00) for the third and/or subsequent impoundments and a boarding fee of six dollars and fifty cents ($6.50) per day. In addition, a rabies vaccination tag must be obtained for any dog or cat. If there are any veterinary charges and such other costs actually incurred by the animal shelter in the care of the claimed animal the owner is also required to pay upon release from the shelter. Impound and boarding fees for other animals shall be as follows:

A. For each swine, sheep, goat, domestic fowl, or chickens, geese, duck or water fowl impounded, an impoundment fee of seventy dollars ($70.00), and a boarding fee of ten dollars ($10.00) per day.

B. For each horse, mule, jack, cow, bull, steer, ox or similar cattle impounded an impoundment fee of forty dollars ($40.00) and a boarding fee of fifteen dollars ($15.00) per day.

C. For any animal not specifically mentioned herein, the impoundment fee shall be eighty dollars ($80.00) per day.

5. Diseased or Injured Animals. No animal need be kept for the period of notification or impoundment if a licensed veterinarian and/or animal control officer supervisor certifies that the animal is so diseased or injured that it is unduly suffering or cannot survive. In such cases the animal may be subjected to humane euthanasia.

6. Unclaimed Animals. Animals not reclaimed or redeemed within the time limitations provided by this chapter shall become the property of the City or animal shelter and shall be placed for adoption in a suitable home or subject to humane euthanasia.

7. Duty to Pay Fees. The refusal to redeem or reclaim any impounded animal shall not relieve the owner of the duty to pay the impoundment fees, boarding fees, veterinarian expenses or any other costs incurred in the care of the animal. An owner or custodian who refuses to pay such expenses shall be in violation of this chapter and subject to citation for the same.

8. Non-Liability. Neither the City nor the animal shelter, nor the agents and officers enforcing the provisions of this chapter shall be liable for any accident or subsequent disease that may occur in connection with the impoundment of any animal pursuant to this chapter.

55.15 INSPECTIONS.

1. Inspection Procedures. Whenever, it becomes necessary to make an inspection to enforce any of the provisions of or to perform any duty imposed by this chapter or other applicable law, or whenever the animal control officer or other authorized person has reasonable cause to believe that there exists in any building or upon any premises any violation of the provisions of this chapter or other applicable law, the officer is authorized to enter such property at any reasonable time and to inspect the same and perform any duty imposed upon the officer by this chapter or other applicable law. If property is occupied, the officer shall first present proper credentials to the occupant and requesting entry, explaining the reasons entry is sought. If the property is unoccupied, the officer shall first make a reasonable effort to locate the owner or other person in control of the property and request entry explaining the reason thereof. If entry is refused, or the owner or person in control of the property cannot be located after due diligence, the officer shall have recourse to every remedy provided by law to secure lawful entry and inspect the property.

2. Immediate Inspection. If the animal control officer or police officer has reasonable cause to believe that the keeping or the maintenance of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall have the right to immediately enter and inspect such property, and may use any reasonable means required to affect such entry and make such investigation, whether the property is occupied or unoccupied. If occupied, the officer shall first present proper identification and demand entry explaining the reasons thereof and the purpose of the inspection.

55.16 UNLAWFUL TO INTERFERE. It is unlawful for any person to interfere with, hinder, willfully prevent or attempt to prevent any deputy, animal control officer, police officer or person authorized to enforce this chapter by the City in the enforcement of this chapter.

55.17 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF VICIOUS ANIMALS.

1. The animal control officer or designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Council. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than seventy-two (72) hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall state that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If after a hearing, the Council determines that an animal is vicious, the Council shall order the person owning, sheltering, harboring, or keeping the animal to remove it from the City, or to cause it to be destroyed in a humane manner. The order

shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the animal control officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the Council was issued has not petitioned the District Court for a review of said order, the animal control officer shall cause the animal to be destroyed.

3. Failure to comply with an order of the Council issued pursuant hereto shall constitute a misdemeanor offense.

4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended; in which case, the animal control officer may immediately destroy it or unless its ownership is not ascertainable, in which case, the animal control officer may destroy it after three (3) days of impoundment.

5. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the City.

55.18 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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

A. A prize for participating in a game.

B. A prize for participating in a fair.

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

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

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

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

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

55.19 PENALTIES. Any violation of this chapter shall constitute a municipal infraction punishable as provided in the following schedule of penalties: 1st offense, $10.00 plus appropriate court costs; 2nd offense, $50.00 plus appropriate court costs; and third and subsequent offense(s), $100.00 plus appropriate court costs. Each day that a violation occurs or is permitted to exist constitutes a separate offense. Furthermore should there be a finding

for the Plaintiff, the court shall give consideration to ordering the Defendant to abate or correct the violation.

(Ch. 55 – Ord. 238 – Feb. 16 Supp.)

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

(Code of Iowa, Sec. 351.45)

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:

   A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.

   B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.

2. This section shall not apply to an act taken by any of the following:

   A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

   B. A peace officer.

   C. A veterinarian.

   D. An animal shelter or pound.

(Section 55.20 – Ord. 273 – Feb. 21 Supp.)

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

(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:

   A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.

   B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.

2. This section shall not apply to an act taken by any of the following:

   A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

   B. A peace officer.

   C. A veterinarian.

   D. An animal shelter or pound.

(Section 55.21 – Ord. 273 – Feb. 21 Supp.)

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CHAPTER 56

URBAN CHICKENS

56.01 Purpose
56.02 Definitions
56.03 Where Permitted
56.04 Enclosure Requirements
56.05 Number of Chickens Permitted
56.06 Compliance Official
56.07 Permit Requirements
56.08 Investigation of Complaints

56.01 PURPOSE. The purpose of this chapter is to protect the health, safety and welfare of the citizens within the City by allowing a process by which a property owner may keep a limited number of domesticated chickens on their property while observing minimum property standards.

56.02 DEFINITIONS. Definitions used in this chapter.

1. "Chicken" shall mean a member of the subspecies Gallus gallus domesticus, a domesticated fowl.

2. "Urban Chicken" shall mean a chicken kept on a permitted tract of land pursuant to a permit issued under this chapter.

3. "Coop" shall mean a cage, enclosure or building, either stationary or movable, used for housing and protecting chickens from weather and predators.

4. "Pen" shall mean an enclosure for chickens which allows freedom of movement but also prevents escape.

5. "Permittee" shall mean an applicant who has been granted a permit to raise, harbor or keep chickens pursuant to this chapter.

56.03 WHERE PERMITTED. Notwithstanding the provision of this section, the keeping of domestic chickens (subspecies Gallus gallus domesticus), except roosters, shall be permitted in single family residential properties so long as such keeping is in compliance with this subsection and all other applicable City ordinances.

56.04 ENCLOSURE REQUIREMENTS. The following criteria shall be considered a minimum form of compliance for the City to consider issuing a permit allowing for the presence of any particular chickens unless allowing such chickens would endanger the health, safety, peace, quiet, comfort, enjoyment of, or otherwise become a public nuisance to hereby residents or occupants or places of business:

1. Chickens much be confined in a coop, fowl house, or mobile coop, known as a chicken tractor, not less than 18 inches in height. In addition to being confined within a coop, a fenced pen area at a size outlined below shall be maintained. Chickens must be kept within the coop, the fowl house, or the fenced pen area at all times unless removed for a temporary time for the safety of the chicken.

2. The coop, the fowl house, or the fenced pen area must be of such design as to be reasonably expected to prevent entry by dogs, cats, or other animals and shall be completely enclosed.

3. The coop or fowl house must be used for chickens only and must be well ventilated.

4. The coop, the fowl house, or the fenced pen area shall have a minimum of four (4) square feet of floor area for each chicken but shall not be any larger than twelve (12) square feet of area for each chicken. The coop, fowl house, chicken tractor or fenced pen area shall be a minimum of ten (10) feet from any neighboring property line and a minimum of twenty-five (25) feet from any neighboring dwelling. In the event a zoning or other ordinance requires a greater distance, the more restrictive regulations shall apply.

5. Any coop, fowl house, or fenced pen area must be well drained so there is no accumulation of moisture.

6. Any coop, fowl house, or fenced pen area shall be kept clean, sanitary and free from accumulation of chicken excrement and objectionable odors. All droppings and body excretions shall be placed in fly-proof containers and double-bagged in plastic bags or, in the alternative, used as fertilizer on the same property or, with the owner's permission, on other property within the City, so long as the droppings and body excretions are spread and incorporated into the soil within twenty-four (24) hours.

7. In addition to the coop, fowl house, or fenced pen area, the permittee shall be sufficiently confining chickens to the permitted property and prevent chickens from entering upon any adjacent property.

8. All chicken feed shall be stored in rodent-proof containers.

9. All such chickens must be hens; no roosters are permitted.

10. The City shall not be liable for injury or death of chickens caused by dogs, cats, or other animals, domestic or wild, whether such animals are licensed by the City or not. Further, injury or death of a chicken caused by an animal is not, in and of itself, sufficient grounds for the City to determine that the animal is a vicious animal pursuant to this Code of Ordinances. Any dead chicken shall be disposed of immediately upon discovering said dead chicken in a manner so as not to cause a nuisance pursuant to this Code of Ordinances.

11. Slaughtering of chickens or selling of eggs is forbidden.

12. An owner or possessor of animals on property that is newly annexed or rezoned to a residential classification has ninety (90) days from the date of annexation or rezoning to bring the property into compliance required by this section.

13. A violation of this subsection is a municipal infraction as provided in this Code of Ordinances.

56.05 NUMBER OF CHICKENS PERMITTED. No more than five (5) chickens shall be kept or maintained per property at any time.

56.06 COMPLIANCE OFFICIAL. There shall be a Compliance Official appointed by Council to review applications and investigate complaints. ***(Ord. 323 – Apr. 25 Supp.)***

56.07 PERMIT REQUIREMENTS. No person shall keep any chickens unless they possess a City of Clarence permit issued by the City Clerk or their designee.

1. Permits will remain valid for so long as the property remains in possession of the person to whom the permit is issued.

2. The applicant must successfully complete an approved class in raising chickens in an urban setting. The Permitting Officer shall maintain a current list of such approved classes.

3. Permits may be granted to:

   A. Property owner, and

   B. Tenant, with the written approval of the property owner.

4. The fee for such permit shall be set by resolution of the City Council.

5. Property owners shall notify the City upon discontinuance of housing chickens.

   A. As part of discontinuing housing of chickens on the property, the pen and coop areas shall be cleaned in a timely manner so as to not provide a nuisance to neighboring property owners.

   B. Fees shall not be refunded if the property owner removes the chickens from the premises.

6. The permit may be suspended or revoked by the City Council upon hearing and finding evidence that the permittee has violated the conditions of the permit and listed in this section of the Code. All chickens must be removed from the premises and disposed of in accordance with public health practices upon revocation of the permit. There will be no refund of the permit fee. All associated costs of removal of the chickens shall be assessed back to the property owner.

7. By the granting of the permit to raise chickens and the application thereof, the permittee authorizes that the City or its agents have the right to go onto permittee's property any time for the limited purposes of inspection of the premises to ensure that all applicable conditions have been met.

56.08 INVESTIGATION OF COMPLAINTS. In the event of complaints of non-compliance with this ordinance, the Compliance Official shall investigate said complaint. If the Compliance Official determines there is a violation of the ordinance, they shall take the following steps:

1. After an initial complaint, where a violation is found, permittee shall receive a written warning. The Compliance Official shall do a follow-up inspection to determine compliance.

2. After a second complaint, where a violation is found, against the same permittee, a written, final warning shall be issued. The Compliance Official may do a follow-up inspection at two weeks, one month, and three months, if required.

3. After a third complaint, where a violation is found, the Urban Chicken Permit shall be revoked.

(Section 56.08 – Ord. 323 – Apr. 25 Supp.)

(Ch. 56 – Ord. 251 – Mar. 18 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 "Clarence 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 the following designated streets:

   A. 1st Avenue from Lombard Street to the north City limits;

   B. Ames Street from 1st Avenue to 6th Avenue;

   C. Lombard Street from 5th Avenue to 7th Avenue.

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 schoolhouse.

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

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

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

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

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

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

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this 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 or, in the absence of a peace officer, any officer of the Fire Department when at the scene of a fire, is authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Clerk. 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.

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

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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 this Traffic Code. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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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 Obstructing View at Intersections
62.07 Milling
62.08 Transportation of Dangerous Materials
62.09 Engine Brakes and Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.41 – Change of address or title or fuel type.
6. Section 321.45 – Title transferred with vehicle.
7. Section 321.57 – Operation under special plates.
8. Section 321.67 – Certificate of title must be executed.
9. Section 321.78 – Injuring or tampering with vehicle.
10. Section 321.79 – Intent to injure.
11. Section 321.91 – Penalty for abandonment.
12. Section 321.98 – Operation without registration.
13. Section 321.99 – Fraudulent use of registration.
14. Section 321.104 – Penal offenses again title law.
15. Section 321.115 – Antique vehicles; model year plates permitted.
16. Section 321.174 – Operators licensed.
17. Section 321.174A – Operation of motor vehicles with expired license.
18. Section 321.180 – Instruction permits.
19. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.
20. Section 321.193 – Restricted licenses.
21. Section 321.194 – Special minor's licenses.
22. Section 321.208A – Operation in violation of out-of-service order.

23. Section 321.216 – Unlawful use of license and nonoperator's identification card.

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

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

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

27. Section 321.219 – Permitting unauthorized minor to drive.

28. Section 321.220 – Permitting unauthorized person to drive.

29. Section 321.221 – Employing unlicensed chauffeur.

30. Section 321.222 – Renting motor vehicle to another.

31. Section 321.223 – License inspected.

32. Section 321.224 – Record kept.

33. Section 321.232 – Radar jamming devices; penalty.

34. Section 321.234A – All-terrain vehicles.

35. Section 321.235A – Electric personal assistive mobility devices.[†]

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

37. Section 321.257 – Official traffic control signal.

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

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

40. Section 321.262 – Damage to vehicle.

41. Section 321.263 – Information and aid.

42. Section 321.264 – Striking unattended vehicle.

43. Section 321.265 – Striking fixtures upon a highway.

44. Section 321.266 – Reporting accidents.

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

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

47. Section 321.277 – Reckless driving.

48. Section 321.277A – Careless driving.

49. Section 321.278 – Drag racing prohibited.

50. Section 321.281 – Actions against bicyclists.

51. Section 321.284 – Open container; drivers.

[†] **EDITOR'S NOTE:** *Code of Iowa* Section 321.235B was added as Subsection 163 in January 2022.

52. Section 321.284A – Open container; passengers.

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

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

55. Section 321.297 – Driving on right-hand side of roadways; exceptions.

56. Section 321.298 – Meeting and turning to right.

57. Section 321.299 – Overtaking a vehicle.

58. Section 321.302 – Overtaking and passing.

59. Section 321.303 – Limitations on overtaking on the left.

60. Section 321.304 – Prohibited passing.

61. Section 321.306 – Roadways laned for traffic.

62. Section 321.307 – Following too closely.

63. Section 321.308 – Motor trucks and towed vehicles; distance requirements.

64. Section 321.309 – Towing; convoys; drawbars.

65. Section 321.310 – Towing four-wheel trailers.

66. Section 321.312 – Turning on curve or crest of grade.

67. Section 321.313 – Starting parked vehicle.

68. Section 321.314 – When signal required.

69. Section 321.315 – Signal continuous.

70. Section 321.316 – Stopping.

71. Section 321.317 – Signals by hand and arm or signal device.

72. Section 321.318 – Method of giving hand and arm signals.

73. Section 321.319 – Entering intersections from different highways.

74. Section 321.320 – Left turns; yielding.

75. Section 321.321 – Entering through highways.

76. Section 321.322 – Vehicles entering stop or yield intersection.

77. Section 321.323 – Moving vehicle backward on highway.

78. Section 321.323A – Approaching certain stationary vehicles.

79. Section 321.324 – Operation on approach of emergency vehicles.

80. Section 321.324A – Funeral processions.

81. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.

82. Section 321.330 – Use of crosswalks.

83. Section 321.332 – White canes restricted to blind persons.

84. Section 321.333 – Duty of drivers approaching blind persons.

85. Section 321.340 – Driving through safety zone.

86. Section 321.341 – Obedience to signal of train.

87. Section 321.342 – Stop at certain railroad crossings; posting warning.

88. Section 321.343 – Certain vehicles must stop.

89. Section 321.344 – Heavy equipment at crossing.

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

91. Section 321.354 – Stopping on traveled way.

92. Section 321.359 – Moving other vehicle.

93. Section 321.362 – Unattended motor vehicle.

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

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

96. Section 321.365 – Coasting prohibited.[†]

97. Section 321.367 – Following fire apparatus.

98. Section 321.368 – Crossing fire hose.

99. Section 321.369 – Putting debris on highway.

100. Section 321.370 – Removing injurious material.

101. Section 321.371 – Clearing up wrecks.

102. Section 321.372 – School buses.

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

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

105. Section 321.382 – Upgrade pulls; minimum speed.

106. Section 321.383 – Exceptions; slow vehicles identified.

107. Section 321.384 – When lighted lamps required.

108. Section 321.385 – Head lamps on motor vehicles.

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

110. Section 321.387 – Rear lamps.

111. Section 321.388 – Illuminating plates.

112. Section 321.389 – Reflector requirement.

113. Section 321.390 – Reflector requirements.

114. Section 321.392 – Clearance and identification lights.

115. Section 321.393 – Color and mounting.

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

117. Section 321.395 – Lamps on parked vehicles.

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

[†] **EDITOR'S NOTE:** *Code of Iowa* Section 321.366 was added as Subsection 164 in January 2022.

119. Section 321.402 – Spot lamps.
120. Section 321.403 – Auxiliary driving lamps.
121. Section 321.404 – Signal lamps and signal devices.
122. Section 321.404A – Light-restricting devices prohibited.
123. Section 321.405 – Self-illumination.
124. Section 321.408 – Back-up lamps.
125. Section 321.409 – Mandatory lighting equipment.
126. Section 321.415 – Required usage of lighting devices.
127. Section 321.417 – Single-beam road-lighting equipment.
128. Section 321.418 – Alternate road-lighting equipment.
129. Section 321.419 – Number of driving lamps required or permitted.
130. Section 321.420 – Number of lamps lighted.
131. Section 321.421 – Special restrictions on lamps.
132. Section 321.422 – Red light in front.
133. Section 321.423 – Flashing lights.
134. Section 321.430 – Brake, hitch, and control requirements.
135. Section 321.431 – Performance ability.
136. Section 321.432 – Horns and warning devices.
137. Section 321.433 – Sirens, whistles, and bells prohibited.
138. Section 321.434 – Bicycle sirens or whistles.
139. Section 321.436 – Mufflers, prevention of noise.
140. Section 321.437 – Mirrors.
141. Section 321.438 – Windshields and windows.
142. Section 321.439 – Windshield wipers.
143. Section 321.440 – Restrictions as to tire equipment.
144. Section 321.441 – Metal tires prohibited.
145. Section 321.442 – Projections on wheels.
146. Section 321.444 – Safety glass.
147. Section 321.445 – Safety belts and safety harnesses; use required.
148. Section 321.446 – Child restraint devices.
149. Section 321.449 – Motor carrier safety regulations.[†]
150. Section 321.450 – Hazardous materials transportation.
151. Section 321.454 – Width of vehicles.

[†] **EDITOR'S NOTE.** *Code of Iowa* Section 321.449B was added as Subsection 162 in January 2019.

152. Section 321.455 – Projecting loads on passenger vehicles.

153. Section 321.456 – Height of vehicles; permits.

154. Section 321.457 – Maximum length.

155. Section 321.458 – Loading beyond front.

156. Section 321.460 – Spilling loads on highways.

157. Section 321.461 – Trailers and towed vehicles.

158. Section 321.462 – Drawbars and safety chains.

159. Section 321.463 – Maximum gross weight.

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

161. Section 321.466 – Increased loading capacity; reregistration.

162. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle. ***(Ord. 261 – Jan. 19 Supp.)***

163. Section 321.235B – Low-speed electric bicycles. ***(Ord. 281 – Jan. 22 Supp.)***

164. Section 321.366 – Acts prohibited on fully controlled-access facilities. ***(Ord. 281 – Jan. 22 Supp.)***

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 MILLING. It is unlawful to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.

62.08 TRANSPORTATION OF DANGEROUS MATERIALS. It is unlawful to transport within the City gasoline, fertilizer or any other hazardous or dangerous material in violation of the following regulations:

1. Special Route Required. In operating through the City, gasoline tank vehicles and fertilizer tank vehicles or vehicles carrying any other hazardous or dangerous materials or gases shall travel over through highways and detours therefor and shall not leave such highways except in an emergency. No such vehicle shall be left standing unattended within the City unless the place at which it is left standing has been approved by the Fire Chief or an authorized subordinate of the Fire Chief or by the Council; however, gasoline tank vehicles may be left standing on oil bulk plant property.

2. Deliveries; Routing and Parking. In making deliveries to destinations within the City, gasoline tank vehicles and fertilizer tank vehicles or vehicles carrying any other hazardous or dangerous materials or gases shall travel over the shortest route, via arterial streets upon which vehicles of similar gross weight may lawfully operate, from the point of entry into the City or from the point of origin within the City to their destination, or to an intersection on such an arterial nearest the destination and then to destination, via the shortest way through the City. Such tank vehicles while in service shall not be left standing unattended on any street or public place within the City and at each destination shall be parked off the public street except when the destination shall have no outdoor off-street unloading space, and in any event such vehicles shall be parked only during the time necessary to transact the necessary business of and incident to delivery and accounting or collection, and the operator of the vehicle shall remain in constant attendance during the unloading operation.

62.09 ENGINE BRAKES AND COMPRESSION BRAKES. It is unlawful for the driver of any vehicle to use or operate within the City any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

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CHAPTER 63

SPEED REGULATIONS

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

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – twenty (20) miles per hour.
2. Residence or School District – twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On Ball Street from 5th Avenue to 3rd Avenue.

2. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On Lombard Street from 5th Avenue to 8th Avenue.

3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On Lombard Street from 8th Avenue to 9th Avenue.

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

(Code of Iowa, Sec. 321.294)

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns
64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within the business district.

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

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Required
65.03 Four-Way Stop Intersections
65.04 Yield Required
65.05 School Stops
65.06 Stop Before Crossing Sidewalk
65.07 Stop When Traffic Is Obstructed
65.08 Yield to Pedestrians in Crosswalks

65.01 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. Lombard Street from the west City limits to the east City limits.

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

(Code of Iowa, Sec. 321.345)

1. 1st Avenue. Vehicles traveling on 1st Avenue shall stop at Smith Street.
2. 1st Avenue. Vehicles traveling north on 1st Avenue shall stop at Piatt Street.
3. 2nd Avenue. Vehicles traveling on 2nd Avenue shall stop at Ames Street.
4. 2nd Avenue. Vehicles traveling on 2nd Avenue shall stop at Smith Street.
5. 3rd Avenue. Vehicles traveling on 3rd Avenue shall stop at Smith Street.
6. 4th Avenue. Vehicles traveling north on 4th Avenue shall stop at Ames Street.
7. 4th Avenue. Vehicles traveling on 4th Avenue shall stop at Smith Street.
8. 4th Avenue. Vehicles traveling south on 4th Avenue shall stop at Ball Street.
9. 6th Avenue. Vehicles traveling on 6th Avenue shall stop at Smith Street.
10. 6th Avenue. Vehicles traveling on 6th Avenue shall stop at Ball Street.
11. 8th Avenue. Vehicles traveling on 8th Avenue shall stop at Smith Street.
12. 8th Avenue. Vehicles traveling on 8th Avenue shall stop at Ball Street.
13. Ames Street. Vehicles traveling on Ames Street shall stop at 1st Avenue.
14. Smith Street. Vehicles traveling west on Smith Street shall stop at 1st Avenue.
15. Smith Street. Vehicles traveling on Smith Street shall stop at 5th Avenue.
16. Smith Street. Vehicles traveling on Smith Street shall stop at 7th Avenue.
17. Smith Street. Vehicles traveling on Smith Street shall stop at 9th Avenue.
18. Ball Street. Vehicles traveling on Ball Street shall stop at 1st Avenue.
19. Piatt Street. Vehicles traveling west on Piatt Street shall stop at 1st Avenue.

20. Piatt Street. Vehicles traveling on Piatt Street shall stop at 3rd Avenue.

21. Piatt Street. Vehicles traveling east on Piatt Street shall stop at 7th Avenue.

(Section 65.02 – Ord. 288 – Nov. 22 Supp.)

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Intersection of 5th Avenue and Piatt Street.

2. Intersection of Ball Street and 3rd Avenue.

3. Intersection of Ball Street and 5th Avenue.

4. Intersection of Ball Street and 7th Avenue.

5. Intersection of Ball Street and 9th Avenue.

(Section 65.03 – Ord. 288 – Nov. 22 Supp.)

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

(Code of Iowa, Sec. 321.345)

– NONE –

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

(Code of Iowa, Sec. 321.249)

1. Vehicles traveling on Ball Street at 4th Avenue. ***(Ord. 240 – Feb. 16 Supp.)***

65.06 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

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

65.08 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

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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 the City over those streets or bridges named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

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

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

(Code of Iowa, Sec. 321.473 & 475)

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the 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. No person shall drive upon said bridge any vehicle weighing, loaded or unloaded, in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTE. Truck route regulations for the area south of Lombard Street are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing six (6) 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. 1st Avenue from Lombard Street to the south City limits;

B. Piatt Street from 1st Avenue to 7th Avenue;

C. 7th Avenue from Lombard Street to the south City limits.

2. Deliveries off Truck Route. Any motor vehicle weighing six (6) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop

within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing
67.04 Use of Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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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. Alley between 5th Avenue and 4th Avenue is southbound from Ball Street to Piatt Street.

2. Alley between 6th Avenue and 7th Avenue is southbound from Lombard Street to the east-west alley along the north side of the parking lot.

3. Alley from 6th Avenue to the north-south alley between 6th Avenue and 7th Avenue is eastbound.

4. 6th Avenue is northbound from Lombard Street to its intersection with the north line of Ames Street.

5. Alley between 5th Avenue and 6th Avenue is southbound from Lombard Street to a point 70 feet south of south boundary line of Lombard 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 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 All Night Parking Prohibited
69.10 Truck Parking Limited
69.11 Snow Removal
69.12 Controlled Access Facilities
69.13 Recreational Vehicles
69.14 Unlicensed Vehicles and Trailers

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. 6th Avenue on the west side from Lombard Street to a point 150 feet south of Lombard Street;

2. 6th Avenue on the west side from Lombard Street north to Ames Street.

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 said vehicle is 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 forty-eight hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale;

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;

3. Advertising. Displaying advertising;

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])

2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])

3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])

4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])

5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])

6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358[11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic

conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

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

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

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

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

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

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

B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*;

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the *Code of Iowa* when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the *Code of Iowa*.

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

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

1. Lombard Street, on the north side, from the alley between 7th Avenue and 8th Avenue to the alley east of 9th Avenue;

2. 7th Avenue, on the east side, from Lombard Street to Piatt Street;

3. Ball Street, on the south side, from the alley between 3rd Avenue and 4th Avenue to the alley between 4th Avenue and 5th Avenue;

4. Lombard Street, on the south side, from the alley east of 8th Avenue to 9th Avenue.

5. Industrial Park Drive.

6. Ball Street, on the south side, from 3rd Avenue to 4th Avenue.
(Ord. 218 – Jan. 12 Supp.)

7. Ames Street, on the South side, from 1st Avenue to 2nd Avenue.
(Ord. 241 – Feb. 17 Supp.)

8. Ball Street, on the north and south sides, from 8th Avenue to 9th Avenue.
(Ord. 293 – Aug. 23 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 6:00 p.m. and 6:00 a.m. of any day.

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

1. Lombard Street, on the south side, from 8th Avenue to the alley between 8th Avenue and 7th Avenue.

69.10 TRUCK PARKING LIMITED. Excepting only when actually engaged in the delivery or receiving of merchandise or cargo, no person shall park a motor truck or semi-trailer, or other motor vehicle with trailer attached, on Lombard Street or on any street in the area south of Lombard Street.

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

69.11 SNOW REMOVAL. Whenever the Mayor or a designated representative perceives an emergency to exist in the City or any section thereof because of snow, freezing rain, sleet, ice, drifting snow, or other natural phenomenon which creates or is likely to create hazardous road conditions or impede the free movement of fire, police, health, emergency or other vehicular traffic or which otherwise endangers the safety and welfare of the public, the Mayor or representative may declare an emergency to exist. Notice of the existence of an emergency and the terms and termination thereof shall be given to the print, radio and television media, which shall be requested to cooperate with the City in the dissemination of said information to the public. When given, such notice shall constitute due and proper notice of the emergency and the terms and conditions thereof. During such emergency, it is unlawful for any person to park or otherwise leave unattended any vehicle on the north side of streets and the west side of streets on even calendar days and on the south side of streets and east side of streets on odd calendar days, except that parking may be resumed on individual streets after the accumulated snow or ice has been removed from the full width of the streets.

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

69.13 RECREATIONAL VEHICLES. It shall be unlawful to park a boat trailer, utility trailer, or unoccupied motor home, travel or camping trailer, on any public street and public property, alley or place. Upon application to the Police Department, emergency or temporary parking for occupied travel trailers, campers and motor homes may be permitted at designated locations of public streets, alleys or any other public place for a three (3) day period, subject to extended time of up to three (3) days upon reapplication, and subject to any other prohibitions or regulations imposed by traffic and parking ordinance of the City. ***(Ord. 269 – Feb. 20 Supp.)***

69.14 UNLICENSED VEHICLES AND TRAILERS. Motor vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings. ***(Ord. 269 – Feb. 20 Supp.)***

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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, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of fifteen dollars ($15.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars ($5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00).

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

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

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

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

CHAPTER 74

OPERATION OF GOLF CARTS ON CITY STREETS

74.01 Purpose
74.02 Definitions
74.03 Operation of Golf Carts Permitted
74.04 Prohibited Streets
74.05 Unlawful Operation
74.06 Equipment
74.07 Hours of Operation
74.08 Speed
74.09 Traffic Code
74.10 Parking Prohibited
74.11 Permits
74.12 Violation and Penalty
74.13 Financial Responsibility
74.14 Applicability to ATV/UTVs

74.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on certain streets in the City, as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter applies whenever a golf cart is operated on any street or alley of the City of Clarence, Iowa.

74.02 DEFINITIONS. "Golf cart" means a small motorized vehicle (either powered by gasoline or batteries) originally designed for transporting golfers and their equipment around a golf course.

74.03 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons possessing a valid Iowa operator's license, and at least sixteen (16) years of age, except as prohibited in Section 74.04 of this chapter.

(Section 74.03 – Ord. 284 – Nov. 22 Supp.)

74.04 PROHIBITED STREETS. Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such a primary road extension. Highway 30 (Lombard Street) and 7th Avenue are hereby designated as primary road extensions in the City.

74.05 UNLAWFUL OPERATION.

1. No golf carts shall be operated or parked upon City sidewalks or trails.
2. No person shall operate a golf cart in a careless, reckless or negligent manner.
3. No golf cart shall carry more passengers than the golf cart is designed for.
4. No person shall operate a golf cart while under the influence of alcoholic beverage(s) or any substance.

74.06 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a minimum of the following safety features:

1. A slow moving vehicle sign.
2. A bicycle safety flag, the top of which shall be a minimum of five (5) feet above ground level.
3. Adequate brakes.
4. Any other safety equipment which may be required for golf carts by Chapter 321 of the *Code of Iowa*.

74.07 HOURS OF OPERATION. Golf carts may be operated on City streets and alleys only between sunrise and sunset.

74.08 SPEED. No golf cart shall be operated on any City street at a speed in excess of twenty-five (25) miles per hour. Posted speed limits must be followed in accordance with the *Code of Iowa* and Clarence Code of Ordinances.

74.09 TRAFFIC CODE. Any person operating a golf cart for which a City of Clarence permit has been issued shall strictly adhere to all traffic signs and signals and all other traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer authorized to direct or regulate traffic.

74.10 PARKING PROHIBITED. Golf carts shall not be parked on the travelled portion of City streets or alleys at any time.

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

1. Golf cart owners may apply for a yearly permit from the City Clerk on forms provided by the City.

2. The City Clerk will not issue a permit until the owner/operator has provided proof that the applicant/owner possesses a valid Iowa driver's license and is at least 16 years of age. ***(Ord. 284 – Nov. 22 Supp.)***

(Subsections 1 and 2 – Ord. 264 – Feb. 20 Supp.)

3. The operator of a golf cart shall display the Clarence permit sticker prominently on the rear fender or similar component.

4. The fee for such permits shall be ten dollars ($10.00) per year. Permits will be granted for one (1) year valid from January 1 through December 31. Permits may be purchased at anytime during the year but will be valid only through December 31.
(Subsection 4 – Ord. 307 – Apr. 24 Supp.)

5. The permit may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder. There will be no refund of the permit fee.

74.12 VIOLATION AND PENALTY. Any person guilty of violating the provisions herein shall be guilty of a misdemeanor and shall be subject to a fine of one hundred dollars ($100.00) and revocation of the City of Clarence permit for a period of two (2) months.

74.13 FINANCIAL RESPONSIBILITY. The owner or operator of a golf cart must maintain and provide current proof of financial responsibility upon request of any peace officer or City official. The owner and/or operator of a golf cart is liable for any injury or damage occasioned by operation of the golf cart. ***(Ord. 264 – Feb. 20 Supp.)***

74.14 APPLICABILITY TO ATV/UTVS. All provisions of this chapter, except for Sections 74.06 and 74.11, shall apply to the operation of ATV's and UTV's (off-road utility vehicles) as defined in Chapter 75. ***(Ord. 264 – Feb. 20 Supp.)***

(Chapter 74 – Ord. 219 – Aug. 12 Supp.)

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 Operation of All-Terrain Vehicles
75.06 Negligence
75.07 Accident Reports

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. "All-terrain vehicle" or "ATV" means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand two hundred (1,200) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Ord. 223 – Feb. 14 Supp.)

(Code of Iowa, Sec. 321I.1

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

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

3. "Off-road utility vehicle" means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than two thousand (2,000) pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles. ***(Ord. 223 – Feb. 14 Supp.)***

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

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 with a width of forty-eight (48) inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

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

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

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. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

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

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

5. 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.

6. 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. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10[1 & 3])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking."

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

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars ($1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

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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 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 handlebars.

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

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. Yield Right-of-Way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

76.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

76.11 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding, or otherwise so as to disregard the safety of the operator or others.

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

76.13 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

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

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

CHAPTER 77

SCOOTERS, SKATEBOARDS, ROLLER SKATES AND IN-LINE SKATES

77.01 Definitions
77.02 Prohibited Uses
77.03 Further Prohibited Uses
77.04 Restricted Use
77.05 Right-of-way
77.06 Penalty

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

1. "Roller skates" or "in-line skates" means skates with wheels instead of a runner.

2. "Scooter" means a device having two wheels and a low footboard which is steered by a handlebar and is propelled by pushing one foot against the ground while resting the other on the footboard.

3. "Skateboard" means a device consisting of a short oblong piece of wood, plastic or aluminum mounted on large roller skate wheels used for riding upon while standing.

77.02 PROHIBITED USES. No person shall use, operate or permit the use or operation of any scooter, skateboard, roller skates, in-line skates or similar device on any sidewalk, alley, street, parking lot or public place within the area of the City described as follows:

1. All of Lombard Street from the west City limits to the east City limits.

2. The Clarence Post Office, Clarence Public Library, Clarence Family Practice, all City Parks and School Zones. ***(Ord. 242 – Feb. 17 Supp.)***

3. Other Locations. When signs are erected on any sidewalk or roadway prohibiting such use.

77.03 FURTHER PROHIBITED USES. No person shall use, operate or permit the use or operation of any scooter, skateboard, roller skates or in-line skates or similar device on any planter, flower or tree box, park or playground equipment, public stairway, access ramp built for use by the disabled or other people, or tennis courts within the City.

77.04 RESTRICTED USE. The use of scooters, skateboards, roller skates, in-line skates or similar devices in places not prohibited shall be done only in a careful and prudent manner and not in a manner so as to cause or be likely to cause danger or injury to any person or property. Other regulations include:

1. It is unlawful for any person riding a scooter, skateboard, roller skates, in-line skates or similar device to be towed by or to tow any other vehicle upon any sidewalk, alley, street, parking lot or public place within the City.

2. No person shall leave a skateboard unattended on a sidewalk, roadway or other public area. The skateboard operator shall remain with the skateboard at all times.

77.05 RIGHT-OF-WAY. The user or passenger of any such scooters, skateboard, roller skates, in-line skates or similar device shall give the right-of-way to any pedestrian, motor vehicle, bicycle or any other user of any street, sidewalk, or other public place, and shall not interfere with the proper use of any sidewalk, street or other public place by any other person.

77.06 PENALTY. The scooter, skateboard, roller skates, in-line skates or similar device of any person seventeen (17) and under violating the provisions of this chapter may be impounded by the Police Chief or any officer of the police department for not less than five (5) days for a first offense, ten (10) days for a second offense and thirty (30) days for each additional offense thereafter. The scooter, skateboard, roller skates, in-line skates or similar device may be reclaimed by the legal or natural guardian of the owner or user if the owner or user is under the age of eighteen (18). The scooter, skateboard, roller skates, in-line skates or similar device of any person 18 and over violating the provisions of this chapter may be impounded by the Police Chief for not less than five (5) days for a first offense, ten (10) days and a fine of fifty dollars ($50.00) for a second offense. The scooter, skateboard, roller skates, in-line skates or similar device may be reclaimed by its owner or the legal or natural guardian of the owner or user if the owner or user is eighteen (18) or over. Third offense shall result in a fine of one-hundred dollars ($100.00) and the confiscation, impoundment and forfeiture of the scooter, skateboard, roller skates, in-line skates or similar device and shall further subject the user of the device to prosecution for a simple misdemeanor. As used in this section, "impound" means that the Police Chief or any officer of the police department shall seize the skateboard, roller skates or in-line skates and hold the same in legal custody for the term required for a violation of this chapter.

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CHAPTER 80

ABANDONED VEHICLES

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

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

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 or more wheels or other parts which renders the vehicle totally inoperable.

   B. A vehicle that has remained illegally on public property for more than 24 hours.

   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.

   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

   E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

   F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.

4. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

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

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

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

80.03 NOTICE BY MAIL.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.

2. Notice shall be deemed given when mailed. The notice shall include all of the following:

A. A description of the year, make, model, and vehicle identification number of the vehicle.

B. The location of the facility where the vehicle is being held.

C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.

D. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.

E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.

3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.

4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters.

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

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

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

(Section 80.03 – Ord. 277 – Jan. 22 Supp.)

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

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

(Ord. 277 – Jan. 22 Supp.)

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

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

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

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

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

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

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor

vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals
81.03 Obstructing Streets
81.04 Crossing Maintenance

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

1. "Operator" means any individual, partnership, corporation or other association which owns, operates, drives, or controls a railroad train.

2. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.

2. Avoid Striking. When necessary to avoid striking any object or person on the track.

3. Disabled. When the train is disabled.

4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

5. In Motion. When the train is in motion except while engaged in switching operations.

6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions
90.02 Superintendent's Duties
90.03 Mandatory Connections
90.04 Abandoned Connections
90.05 Building Permit
90.06 Fees
90.07 Compliance with Plumbing Code
90.08 Plumber Required
90.09 Excavations
90.10 Tapping Mains
90.11 Installation of Water Service Pipe
90.12 Responsibility for Water Service Pipe and Curb Valve
90.13 Failure to Maintain
90.14 Curb Valve
90.15 Interior Valve
90.16 Inspection and Approval
90.17 Completion by the City
90.18 Shutting off Water Supply
90.19 Operation of Curb Valve and Hydrants

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.

2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.

4. "Water main" means a water supply pipe provided for public or community use.

5. "Water service pipe" means the pipe from the water main to the building served.

6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 BUILDING PERMIT. Before any person makes a connection with the public water system, a building permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. The permit shall expire one year after the date of issuance if work is begun within 180 days of issuance or after 180 days if no substantial beginning of construction has occurred. When such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEES. The following fees shall be charged for connection with the public water system when the building permit is issued:

1. Water Meter Fee:..... $200.00 or actual cost, whichever is greater.
2. Water Hookup Fee..... $85.00
3. Inspection Fee $10.00

(Ord. 226 – Feb. 14 Supp.)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the *State Plumbing Code*.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen

(18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE AND CURB VALVE. All costs and expenses incident to the installation, connection, and maintenance of the water service pipe from the curb valve to the building served (including the curb valve) 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. ***(Ord. 290 – Nov. 22 Supp.)***

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

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

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

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

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

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

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

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

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CHAPTER 91

WATER METERS

91.01 Purpose
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91.07 Meter Repairs
91.08 Right of Entry
91.09 Tampering with or Bypassing Meters
91.10 Emergency Repairs

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS – EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER COSTS. The full cost of the meter shall be paid to the City by the property owner or customer prior to the installation of the meter.

91.07 METER REPAIRS. 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 or property owner, then the property owner shall be liable for the cost of repairs.

91.08 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.09 TAMPERING WITH OR BYPASSING METERS. Any person who tampers with a water meter or who bypasses the water meter or attempts to bypass the water meter, or any person who consumes water for private purposes where all the City water so used does not run through a water meter, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not to exceed five hundred dollars ($500.00) and in addition the City Council may order the discontinuance of the perpetrator's water service for a period of time to be designated by the City Council.

(Ord. 217 – Jan. 12 Supp.)

91.10 EMERGENCY REPAIRS. In an emergency repairs may be made to the water service and the meter may be removed, but the owner or plumber must notify the City within seventy-two (72) hours of such emergency repair so the Water Superintendent or designee may inspect the meter to confirm it is properly installed. A failure to so notify the City within seventy-two (72) hours of such emergency repair is a violation of the Code of Ordinances.

(Ord. 217 – Jan. 12 Supp.)

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates and Service
92.03 Billing for Water Service
92.04 Service Discontinued
92.05 Lien for Nonpayment
92.06 Lien Exemption
92.07 Lien Notice
92.08 Customer Deposits
92.09 Temporary Vacancy

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 AND SERVICE. Water service shall be furnished at the following monthly rates with the City:

WATER RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Basic Service Charge	$2.50	$2.50	$2.50	$2.50	$2.50
Rate Per Cubic Foot	$0.08925000	$0.09371250	$0.09839813	$0.10331803	$0.10848393
Minimum Bill (250 Cubic Foot or Less)	$24.81	$25.93	$27.10	$28.33	$29.62
Sales tax shall be in addition to all the above in accordance with State law.					

In addition to the monthly water rates noted above, there will be an additional monthly Water Debt Service Fee of $5.00 per utility account beginning January 1, 2025.

(Section 92.02 – Ord. 319 – Nov. 24 Supp.)

92.03 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 every month.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 20th of the month in which it is due and payable.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill, with a minimum late payment penalty of $2.50.

(Ord. 221 – Aug. 12 Supp.)

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

(Code of Iowa, Sec. 384.84)

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

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property. ***(Ord. 224 – Feb. 14 Supp.)***

3. Hearing. If a hearing is requested before the date specified in the notice, the Council shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of forty dollars ($40.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property. ***(Ord. 220 – Aug. 12 Supp.)***

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

(Code of Iowa, Sec. 384.84)

92.06 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property

and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

(Ord. 229 – Feb. 14 Supp.)

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

(Ord. 247 – Feb. 17 Supp.)

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

(Code of Iowa, Sec. 384.84)

92.08 CUSTOMER DEPOSITS. There shall be required from every customer not the owner of the premises served a two hundred dollar ($200.00) deposit intended to guarantee the payment of bills for service. ***(Ord. 294 – Aug. 23 Supp.)***

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

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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 Use of Easements
95.09 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20º) C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.

14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

18. "Sewer" means a pipe or conduit for carrying sewage.

19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

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

(Code of Iowa, Sec. 716.1)

1. 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.

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

3. 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.

4. 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])

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within thirty (30) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12[3f])
(IAC, 567-69.1[3])

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

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Building Permit
96.02 Fees
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations

96.01 BUILDING 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 building permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall expire one year after the date of issuance if work is begun within one hundred eighty (180) days of issuance or after one hundred eighty (180) days if no substantial beginning of construction has occurred. 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. The permit may be revoked at any time for a violation of these chapters.

96.02 FEES. The following fees shall be charged for connection with the public sewer system when the building permit is issued:

1. Residential Connection Fee: ..... $ 260.00
2. Commercial/Industrial Connection Fee ..... $ 400.00
3. Inspection Fee ..... $ 10.00

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All 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.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to

the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code*, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. 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 to meet the following:

A. Recommended grade at one-fourth (1/4) inch per foot.

B. Minimum grade of one-eighth (1/8) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).

B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.

C. Ductile iron water pipe – A.W.W.A. C-151.

D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (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.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be

covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges
97.05 Restricted Discharges; Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150º) F (65º C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32º F and 150º F (0º to 65º C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing

facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

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

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

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted
99.08 Surcharges
99.09 Responsibility for Increased Costs
99.10 Review of User Charge System
99.11 Notification of Rate Change

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Sewer service shall be furnished at the following monthly rates within the City:

SEWER RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Sewer Project Fee	$6.50	$6.50	$6.50	$6.50	$6.50
Per Cubic Foot (100% of Water Usage)	$0.08925000	$0.09371250	$0.09839813	$0.10331803	$0.10848393
Minimum Bill (250 Cubic Foot or Less)	$28.81	$29.93	$31.10	$32.33	$33.62
Sales tax shall be in addition to all the above in accordance with State law.					

(Section 99.02 – Ord. 309 – Apr. 24 Supp.)

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. Residential customers whose premises are served by a private water system shall pay sewer charges in the amount reflected as the minimum rates and fees set in 99.02 of this Code of Ordinances per monthly period. Commercial customers whose premises are served by a private water system shall pay sewer charges as negotiated with the Council. ***(Ord. 291 – Nov. 22 Supp.)***

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 92.03 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be

jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. ***(Ord. 224 – Feb. 14 Supp.)***

(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. Provided, however, the user charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of Section 204(b)(1)(A) of the Clean Water Act.

99.08 SURCHARGES. For those customers who contribute wastewater the strength of which is greater than normal domestic sewage, a surcharge will be collected in addition to the sewer user charge. The surcharge shall be as determined by the Council.

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

99.10 REVIEW OF USER CHARGE SYSTEM. The City shall review the user charge system at least every two (2) years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users.

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

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CHAPTER 100

STORM WATER UTILITY

100.01 Purpose
100.02 Definitions
100.03 Storm Water Drainage System District Established
100.04 Rates
100.05 Payment of Bills
100.06 Lien for Nonpayment

100.01 PURPOSE. The purpose of this chapter is to establish a Storm Water Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

100.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.

2. "Customer" means, in addition to any person receiving storm 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. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.

4. "User" means any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

100.03 STORM WATER DRAINAGE SYSTEM DISTRICT ESTABLISHED. Pursuant to the authority of Section 384.84[5] of the *Code of Iowa*, the entire City is hereby declared a Storm Water Drainage System District for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm

water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water Drainage System District.

(Code of Iowa, Sec. 384.84)

100.04 RATES. Each customer shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial and industrial user within the City. The Council may adopt rules, charges, rates, and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City. The following fees shall be charged to each utility customer each month:

STORM WATER RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Residential/Commercial/ Industrial	$2.10	$2.21	$2.32	$2.43	$2.55
Sales tax shall be in addition to all the above in accordance with State law.					

(Section 100.04 – Ord. 311 – Apr. 24 Supp.)

100.05 PAYMENT OF BILLS. All Storm Water Drainage System District charges shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.03 of this Code of Ordinances. All City services may be discontinued in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

(Code of Iowa, Sec. 384.84)

100.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such 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)

(Ch. 100 – Ord. 295 – Aug. 23 Supp.)

CHAPTER 101

PROHIBITION ON DISCHARGE OF STORMWATER AND GROUNDWATER TO CITY SANITARY SEWER

101.01 Purpose
101.02 Definitions and Restrictions
101.03 Sump, Pump, and Rigid Pipe; Method of Installation
101.04 Disconnections Ordered
101.05 Inspections
101.06 Time Limit for Owner/Occupant to Allow Inspection by the City or by a Licensed Plumber
101.07 Time Limit for Disconnection of Discharge into City Sanitary Sewer System
101.08 Sanitary Sewer Surcharge
101.09 Penalties and Enforcement

101.01 PURPOSE. The discharge of water from any roof, surface, ground, sump pump, footing tile or from any other natural precipitation source into the City sanitary sewer collection system has the potential to cause damage to property and to overload the City wastewater collection, conveyance and treatment system. Such discharge may result in the backup of sewage into living quarters of residential dwellings, or into other buildings or structures in the City, thereby creating a potential public health hazard, and potentially exceeding the capacity of the City wastewater collection, conveyance and treatment system. Therefore, the City finds that it is essential to the maintenance of public health, safety, comfort, and welfare, to the minimization of damage to property, and to the maintenance of the functioning and capacity of the City wastewater collection, conveyance and treatment system, that the provisions of this division be strictly enforced.

101.02 DEFINITIONS AND RESTRICTIONS. No water from any roof, surface, ground, sump pump, footing tile, or from any other natural precipitation source shall be discharged into the City sanitary sewer system. Any dwelling, building or other structure subject to the provisions of this division which, because of the infiltration of water into basements, crawl spaces and the like, require a seepage collection system, a "beaver drain," or any sump pump system to discharge water, shall have a permanently-installed discharge line which shall not at any time connect to or discharge such stormwater into the City sanitary sewer system. For purposes of this division, a permanent installation shall be one which provides for a year-round discharge connection to the City subdrain/storm sewer system. If there is no City subdrain/storm sewer system available to the property, the surface discharge point shall be located no closer than ten feet from any property line, or as otherwise approved by the Director of Community Development or his designee. Such discharge line shall consist of a rigid discharge line inside the structure, without valving or quick connections for altering the path of discharge and, if connected to the City subdrain/storm sewer system, shall include a check valve.

101.03 SUMP, PUMP, AND RIGID PIPE; METHOD OF INSTALLATION.

1. Any such discharge line shall consist of a pipe that shall be installed through the outside foundation wall of the dwelling, building or other structure, with rigid pipe (plastic, copper or galvanized) 1½ inches (40 mm) inside diameter minimum, without valves or quick connections that would alter the path of discharge. The discharge shall be directed away from the foundation wall of the structure.

2. No discharge shall be directed so as to impact neighboring properties or any City street, sidewalk or right-of-way.

3. Where a sump pit exists in any such dwelling, building or other structure subject to this division, it shall have a pump installed with rigid piping as specified in this section.

4. Any plumber, contractor, or other person who knowingly installs a sump, pump and/or piping that is not in conformance with the provisions of this division shall be liable to the City for all damages caused by such improper installation, and shall further be subject to the penalties set forth in Section 101.09.

101.04 DISCONNECTIONS ORDERED. Any owner of any dwelling, building, or other structure in the City that is subject to this division, which has a roof, surface, ground, sump pump, footing tile or other natural precipitation source that is now connected to and/or discharging into the City sanitary sewer system, shall immediately disconnect and/or remove the same. Any disconnects or openings in the City sanitary sewer system shall be closed or repaired in a manner approved by the Director of Community Development or his designee.

101.05 INSPECTIONS. Every owner of any dwelling, building or other structure that is subject to the provisions of this division, shall allow a City's designee, to gain admittance to the owner's property in order to inspect such dwelling, building or other structure, to confirm that there is no sump pump or other prohibited discharge from said property into the City sanitary sewer system. The owner of any such property may meet the requirements of this section by contracting with a licensed plumber who is authorized to do business in the City to perform such inspection. Such plumber shall inspect the owner's property and the sump pump system, and shall complete, sign and return an inspection form to the City, documenting the results of the inspection. The inspection form shall be furnished to the owner or the licensed plumber upon request. All costs associated with an inspection by a licensed plumber retained by the property owner under this section shall be the responsibility of the property owner.

101.06 TIME LIMIT FOR OWNER/OCCUPANT TO ALLOW INSPECTION BY THE CITY OR BY A LICENSED PLUMBER. The owner/occupant of any dwelling, building or other structure shall have a period of 30 days from the date the City sends a written notice to the owner requesting admittance to the owner's property for an inspection, to either allow a City inspection of the property, or to contract with a licensed plumber to perform the inspection, and notify the City of the results thereof, as provided in Section 101.05. Such inspection, whether performed by the City inspector, or by the licensed plumber hired by the property owner, shall be completed within said 30 day period.

101.07 TIME LIMIT FOR DISCONNECTION OF DISCHARGE INTO CITY SANITARY SEWER SYSTEM.

1. Upon completion of a City inspection of a property, or upon the City's receipt of an inspection form from the licensed plumber hired by the owner of the property, the City shall determine whether any such property is improperly discharging stormwater into the City sanitary sewer system, and shall send a notice to the property owner regarding the results of said inspection. If the property is found to be discharging stormwater into the City sanitary sewer system, then the owner shall have a period of 180 days from the date the City sends written notice to the owner, to obtain a plumbing permit, and to disconnect the owner's sump pump or other prohibited discharge into the City sanitary sewer system, and to request an inspection, certifying that all work necessary to disconnect the owner's sump pump or other prohibited discharge from said property into the City sanitary sewer system has been completed.

2. All work that is necessary to comply with the provisions of this division which requires the issuance of any plumbing, building or other permit under this Code shall be inspected by the City for compliance with all applicable Code requirements.

101.08 SANITARY SEWER SURCHARGE. Any owner who fails to timely comply with the requirements of either Section 101.06 or 101.07 shall thereupon be subject to and shall pay a monthly surcharge on the property owner's City sewer bill in the amount of $100.00 per month. Said surcharge shall commence on the first day of the month following the expiration of the 30-day period set forth in Section 101.06, or the 180-day period set forth in Section 101.07, as applicable, when either the property owner has failed to timely allow a City inspection or has failed to timely correct any illegal connections to the City sanitary sewer system, or has failed to contract with a licensed plumber to inspect the property and correct any illegal connections to the City sanitary sewer system. Such surcharge shall continue to be imposed on the owner's City sanitary sewer bill for as long as the property owner continues to own the property without complying with the requirements of this division. This monthly surcharge is intended to offset the added cost to the City associated with having the City wastewater collection, conveyance and treatment system process clear or clean water unnecessarily, when the status of the property owner's connection or non-connection to the City sanitary sewer system cannot be ascertained, or when the owner has failed to timely disconnect any discharge of stormwater to the City sanitary sewer system.

101.09 PENALTIES AND ENFORCEMENT. Any person who violates any provision of this division shall be subject to the penalties set forth in this section.

1. If any person is found to be in violation of any of the provisions of this division, the City shall send written notice stating the nature of the violation, and providing the person with at least 30 days to correct the violation. Any person who has received a written notice from the City described in this Subsection 1 and who continues to be in violation of the provisions of this division shall be deemed to have committed a municipal infraction, and shall be subject to a civil penalty as provided for in Chapter 3 of the Ordinances of the City of Clarence, Iowa, as amended. Each day that a municipal infraction occurs or is permitted to continue constitutes a separate offense.

2. Seeking a civil penalty as authorized in this section does not preclude the City from also seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, abatement or injunctive relief.

3. Any person who violates any of the provisions of this division shall be liable to the City for any expense, loss or damage incurred by the City resulting from such violation. The City hereby also retains any and all available civil remedies, including, but not limited to, injunction or abatement actions to remedy any violation of this division.

(Chapter 101 – Ord. 304 – Apr. 24 Supp.)

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required
105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices

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

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

1. "Collector" means any person authorized to gather solid waste from public and private places.

2. "Discard" means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[2])

3. "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.

4. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)

5. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2[455B])

6. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.
(Code of Iowa, Sec. 455B.361[1])

7. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

8. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.
(IAC, 567-100.2)

9. "Residential premises" means a single-family dwelling and any multiple-family dwelling up to and including four (4) separate dwelling units.

10. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

12. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. "Sanitary disposal project" means all facilities and appurtenances, including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(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. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

(IAC, 567-23.2[3f])

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3i])

9. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises. Tree branches may be set out for collection by the City. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

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

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

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. "Rubble" means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

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

(IAC, 567-100.2)
(IAC, 567-102.13[2] and 400-27.14[2])

105.10 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 Solid Waste. All residential solid waste, other than recyclables and yard waste, shall be placed in 95-gallon plastic containers provided by, and remaining the property of, the City. Each waste container will have a serial number imprinted on the container. The waste containers shall be assigned to each property address, and as such, the waste containers shall be left at the property upon a change of occupants. Lost, stolen, damaged, or destroyed waste containers shall be replaced at the expense of the owner/occupant at a cost of $150.00 per container. Solid waste shall be placed and contained in appropriate plastic bags prior to placement in the containers. Any excess residential solid waste which does not fit in the container shall be contained in plastic bags weighing no more than 40lbs each, shall have a tag issued by the City permanently attached thereto, and shall be set on top of the waste container for collection. The City shall replace plastic containers damaged by the City or that become obsolete through ordinary wear and tear.

B. Residential Recyclable Materials. All recyclables shall be placed in 95-gallon plastic containers provided by, and remaining the property of, the City. Each recyclables container will have a serial number imprinted on the container. The recyclables containers shall be assigned to each property address, and as such, the recyclables containers shall be left at the property upon a change of occupants. Lost, stolen, damaged, or destroyed recyclables containers shall be replaced at the expense of the owner/occupant at a cost of $150.00 per container. Recyclables must be placed loosely within the container and shall not be placed within a plastic bag or tied. Recyclables shall be commingled, and must be rinsed, dried, and cleaned or, in the case of cardboard, cleaned and flattened. Newsprint must be dry and may not be contaminated with oil, grease, paint or other like materials. The City may decline to collect recyclables that are either mixed with non-recyclable materials or not prepared or contained in compliance with these provisions. The City shall replace recyclables containers damaged by the City or that become obsolete through ordinary wear and tear.

C. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; 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. Waste and recyclables containers shall be placed at the curb or near the edge of the street no later than 7:00 a.m. on collection days, but no more than twelve (12) hours in advance of the regularly scheduled collection day, under the following procedure:

A. Waste and Recyclables Containers.

(1) The container shall have the lid closed.

(2) The container shall be placed in a manner as to have a minimum of three (3) feet of clear zone along each side of the container to allow for automated collection.

(3) The container shall be set in a manner whereby the open side of the container is facing the street.

B. Extra Bags. Any extra bag, which shall have a tag issued by the City permanently attached thereto for singular (once only) use, shall be set on top of the waste container for collection. Said tags shall be sold by the City or designated vendor, and be clearly identified as such with the cost thereof being set by resolution of the Council.

C. Bulky Items. Any bulky item, which shall have a tag (or multiple tags) issued by the City permanently attached thereto for singular (once only) use, shall be set next to the waste container for collection. Said tags shall be sold by the City or designated vendor, and be clearly identified as such with the cost thereof being set by resolution of the Council

All containers shall be promptly removed from the curb line, whether collected or not, by the end of the collection day; and if any containers are allowed to remain at the curb edge or the street edge past collection days, the owner thereof shall be deemed in violation of this section.

4. Nonconforming Containers. Solid waste and recyclables placed in containers which are not incompliance with the provisions of this section will not be collected.

(Section 105.10 – Ord. 320 – Apr. 25 Supp.)

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Collection of Fees
106.08 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.07 within the City. The collection service shall include the collection of recyclable materials, and each residential premises shall participate in the recycling program. Each residential address will be billed monthly and shall be responsible for the aforementioned services at the rates determined and set by Council. Rules and regulations for the recycling program shall be established by resolution of the Council. The owners or operators of commercial, industrial, or institutional premises may provide for the collection of solid waste produced upon such premises.

(Section 106.01 – Ord. 322 – Apr. 25 Supp.)

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

(IAC, 567-104.9[455B])

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

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

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

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

106.07 COLLECTION OF FEES. The collection and disposal of solid waste and recyclable material as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefore in accordance with the following:

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

1. Schedule of Fees. The fees for solid waste and recyclables collection and disposal service, used or available, are:

A. For each residential premises and for each dwelling unit of a multiple-family dwelling:

GARBAGE/RECYCLING RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Residential/Each Dwelling Multi-Res.	$21.00	$22.05	$23.15	$24.31	$25.53
Landfill Fee	$1.09	$1.09	$1.09	$1.09	$1.09
Minimum Bill	$22.09	$23.14	$24.24	$25.40	$26.62
Fees for bulk items and large amounts of solid waste will be determined on a case-by-case basis.					
Sales tax shall be in addition to all the above in accordance with State law.					

B. For commercial, industrial, and institutional premises:

COMMERCIAL GARBAGE RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Tier 1 - Bin (No Dumpster)	$21.00	$22.05	$23.15	$24.31	$25.53
Tier 2 - 2 yard Dumpster	$73.50	$77.18	$81.03	$85.09	$89.34
Tier 3 - 4 yard Dumpster	$136.50	$143.33	$150.49	$158.02	$165.92
Tier 4 - 6 yard Dumpster	$210.00	$220.50	$231.53	$243.10	$255.26
Tier 5 - 8 yard Dumpster*	$273.00	$286.65	$300.98	$316.03	$331.83
Landfill Fee	$1.09	$1.09	$1.09	$1.09	$1.09
*Fees for larger quantities shall be decided on a case-by-case basis					
Sales tax shall be in addition to all the above in accordance with State law.					

C. For commercial, industrial, and institutional premises:

COMMERCIAL RECYCLING RATES					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Tier 1 – Bin (No Dumpster	$17.85	$18.74	$19.68	$20.66	$21.70
Tier 2 - 2 yard Dumpster	$21.00	$22.05	$23.15	$24.31	$25.53
Tier 3 - 4 yard Dumpster	$23.89	$25.08	$26.34	$27.65	$29.04
Tier 4 - 6 yard Dumpster	$28.88	$30.32	$31.83	$33.43	$35.10
Tier 5 – 8-yard Dumpster*	$34.75	$36.49	$38.31	$40.23	$42.24
*Fees for larger quantities shall be decided on a case by case basis.					
Sales tax shall be in addition to all the above in accordance with State law.					

D. For collection of City owned rental dumpsters, bulk garbage, and special pick up of dumpsters:

DUMPSTER CHARGERS PER YARD					
Effective Date	**July 1, 2024**	**July 1, 2025**	**July 1, 2026**	**July 1, 2027**	**July 1, 2028**
Per-Yard Charge	$31.50	$33.08	$34.73	$36.47	$38.29
Sales tax shall be in addition to all the above in accordance with State law.					

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of water service as contained in Section 92.03 of this Code of Ordinances, and the provisions contained in Section 92.07 relating to notices of delinquency and lien notices shall also apply in the event of delinquent fees for solid waste collection.

(Section 106.07 – Ord. 321 – Apr. 25 Supp.)

106.08 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Ord. 224 – Feb. 14 Supp.)

(Code of Iowa, Sec. 384.84)

[The next page is 491]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Mains and Pipes; Indemnification
110.03 Excavations
110.04 Construction and Maintenance
110.05 Service Requirements
110.06 Franchise Fees
110.07 Management Fees
110.08 Nonexclusive
110.09 Term of Franchise
110.10 Entire Agreement

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

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

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

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

[†] **EDITOR'S NOTE:** Ordinance No. 227 adopting a gas franchise for the City was passed and adopted by the Council on April 8, 2013.

facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

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

110.06 FRANCHISE FEES.

1. In its monthly billing the Company shall include a franchise fee of zero percent (0%) on the gross receipts from the sale of natural gas to the Company's natural gas customers located within the corporate limits of the City.

2. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

3. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of its amended tax rider tariff from the Iowa Utilities Board.

4. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

5. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee.

6. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

7. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

8. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

9. The City shall give the Company a minimum six-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to this section. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such Ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

10. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

11. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

12. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the franchise term.

A. The obligation to collect and remit the fee imposed by this chapter is modified if:

(1) Any other person is authorized to sell natural gas to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

(2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or

(3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee Ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified below with no liability therefor, if:

(1) The imposition, collection or remittance of a franchise fee is judicially determined to be unlawful by a court of competent jurisdiction within the State of Iowa. Such determination shall be effective only after all available appeals have either been exhausted or have expired; or

(2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

(3) The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

13. That said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductor and appliances in, along and under the streets, avenues, alleys and public places in the said City for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof shall be exempt from any special tax, assessment, license or rental charge during the entire term of this chapter.

110.07 MANAGEMENT FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

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

110.09 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

110.10 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal the prior gas system ordinance between the Company and the City as of the date this chapter is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

(Ch.110 - Ord. 227 – Feb. 14 Supp.)

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Poles and Wires; Indemnification
111.03 Excavations
111.04 Construction and Maintenance
111.05 Meters
111.06 System Requirements
111.07 Nonexclusive Franchise
111.08 Continuous Service
111.09 Franchise Fee
111.10 Management Fees
111.11 Term of Franchise
111.12 Entire Agreement

111.01 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years;[†] also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 POLES AND WIRES; INDEMNIFICATION. The poles, lines, wires, circuits and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

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

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public

[†] **EDITOR'S NOTE:** Ordinance No. 228 adopting an electric franchise for the City was passed and adopted on April 8, 2013.

works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-or-way, the Company shall be provided an opportunity to secure easement to allow it to operate and maintain existing facilities.

111.05 METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.06 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

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

111.08 CONTINUOUS SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 FRANCHISE FEE.

1. In its monthly billing the Company shall include a franchise fee of zero percent (0%) on the gross receipts from the sale of electricity to the Company's electric customers located within the corporate limits of the City.

2. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

3. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of the amended tax rider tariff from the Iowa Utilities Board.

4. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

5. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall

provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee.

6. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

7. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

8. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

9. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to this section. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such Ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

10. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

11. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

12. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the franchise term.

A. The obligation to collect and remit the fee imposed by this chapter is modified if:

(1) Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

(2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

(3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee chapter, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified below with no liability therefor, if:

(1) Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court; or

(2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

(3) The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

13. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of

said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this chapter.

111.10 MANAGEMENT FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

111.11 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

111.12 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the written approval and acceptance of the Company. Upon written acceptance by the Company, this chapter shall supersede, abrogate and repeal the prior electric system franchise ordinance between the Company and the City as of the date this franchise ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any Ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this chapter, that create additional burdens upon the Company, or which delay utility operations.

(Ch. 111 - Ord. 228 – Feb. 14 Supp.)

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CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted
112.02 Location of Facilities
112.03 Indemnification
112.04 Not Exclusive
112.05 Use of Company's Poles

112.01 FRANCHISE GRANTED. The right is hereby granted to the Clarence Telephone Company, Inc., its successors and assigns, to erect, maintain and use upon the streets, alleys, and public highways of the City the poles, wires, underground cables and fixtures necessary and convenient for supplying to the citizens of the City public communication facilities by telephone and other electrical signals under the provisions of this chapter until July 25, 2013.[†]

112.02 LOCATION OF FACILITIES. The location of the poles, lines, and cables and any change therein or extension thereof shall be under the direction of the Committee on Streets and Alleys of the Council and so far as possible said poles shall be located in the alleys of the City.

112.03 INDEMNIFICATION. Said poles and wires and underground cables shall be placed and maintained so as not to interfere with travel on public highways and the Company shall hold the City harmless from any and all damage claims arising by reason of any abuse or neglect in any occupancy and this grant is made and is to be enjoyed subject to all reasonable regulations or ordinances of a police nature as the Council may be authorized and see proper at any time to adopt not destructive to the rights hereby granted.

112.04 NOT EXCLUSIVE. The rights of use herein shall not be exclusive. The Council reserves the power to grant the right-of-way to any person or persons for similar use; the same, however, shall not interfere with the reasonable exercise of the privileges herein granted.

112.05 USE OF COMPANY'S POLES. The Company shall agree to allow the City to attach at any time to any of its poles the City fire alarm and police wires, provided it is done so as not to interfere with the Company's use of its equipment, and such attachments shall be made and maintained under the direction of the Company's manager in the City. The Company is to furnish free of charge one instrument in the City Pump Station or Public School, as the Council may direct.

[†] **EDITOR'S NOTE:** Ordinance No. 104, adopting a telephone franchise for the City, was passed and adopted on June 13, 1988. Voters approved the franchise at an election held on July 19, 1988.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 Franchise Granted
113.02 Compliance
113.03 Inspection
113.04 Excavations
113.05 Charges and Rates
113.06 Successors and Assigns
113.07 Indemnification of City
113.08 Transfer
113.09 Regulations

113.01 FRANCHISE GRANTED. The City grants unto the Clarence Telephone Company, Inc., an Iowa corporation, its successors and assigns, a nonexclusive franchise and right for a period of twenty-five (25) years[†] to construct, erect, operate, modify, and maintain in, upon, above, over and under the streets, utility easements, public sidewalks and ways and public grounds which are or may be dedicated to public use in the City any towers, antennas, poles, cables, electronic equipment or other appurtenant equipment necessary for the operation of a Cable Telecommunications Network in the City. The Grantee is hereby designated as a public utility for the purposes of the use of easements dedicated for use by the public utilities and by the City. The franchise shall not relieve the Grantee of any obligation involved in obtaining pole or conduit use agreements from the power and telephone utilities or other agencies maintaining poles or conduits in rights-of-way of the City, whenever the Grantee finds it necessary to make use of said poles or conduits.

113.02 COMPLIANCE. The Grantee shall at all times comply with any and all applicable rules and regulations of the Federal Communications Commission or any duly authorized agency of the United States of America and all laws duly enacted now or hereafter by the United States Congress of the Iowa General Assembly and any and all rules and regulations of said Federal Communications Commission or other duly authorized United States Governmental Agency and said duly enacted laws shall immediately become a part of this chapter and in all manner and respects binding upon the Grantee.

113.03 INSPECTION. The City reserves the right, during the term of the franchise, to inspect all construction or installation work performed under the provisions of the franchise or this chapter.

113.04 EXCAVATIONS. Whenever the Grantee, in erecting, constructing, or maintaining said Cable Telecommunications Network, shall take up or disturb any pavement or sidewalk or make excavations in the streets, avenues, alleys, bridges or public places of the City, such excavations shall at once be refilled and the pavement, sidewalk or other improvements replaced to the satisfaction of the City officials.

113.05 CHARGES AND RATES. The Grantee shall have the right to supply, distribute, and sell cable telecommunications service for any and all purposes to the City and to the inhabitants thereof and to charge therefor just and reasonable rates, subject to the approval of the Council.

[†] **EDITOR'S NOTE:** Ordinance No. 100, granting a cable telecommunications franchise to the Clarence Telephone Company, Inc. was passed and approved by the Council on July 11, 1983. The franchise was renewed and extended for an additional 24 years by Ordinance No. 194, adopted May 12, 2008.

113.06 SUCCESSORS AND ASSIGNS. All of the provisions of this chapter shall apply to the successors and assigns of the Grantee with the same force and effect as they do to the Grantee itself.

113.07 INDEMNIFICATION OF CITY. The Grantee shall hold said City harmless from any and all causes of action, litigation or damages which may arise through or by reason of the construction, reconstruction, maintenance and operation of the Cable Telecommunications Network.

113.08 TRANSFER. The Grantee shall not sell or transfer its system to another, without the approval of the City, provided that such approval shall not be unreasonably withheld.

113.09 REGULATIONS. The right is reserved by the City to adopt, in addition to the provisions contained in this chapter, such additional regulations as it shall find necessary.

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CHAPTER 115

CEMETERY

115.01 Definition
115.02 Trusteeship
115.03 Records
115.04 Sale of Interment Rights
115.06 Perpetual Care
115.07 Cemetery Lots Without Perpetual Care
115.08 Annual Care
115.08 Rules and Regulations

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

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

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

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

115.03 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.

   A. The name and last known address of each owner or previous owner of interment rights.

   B. The date of each purchase or transfer of interment rights.

   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.

   A. The date the remains are interred.

   B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.

   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.04 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

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

115.05 PERPETUAL CARE. The Council, by resolution, shall accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

115.06 CEMETERY LOTS WITHOUT PERPETUAL CARE. Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

115.07 ANNUAL CARE. An annual care charge as specified in the rules and regulations shall be made by the City on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The City reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

115.08 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery.

(Code of Iowa, Sec. 523I.304)

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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
120.06 Amusement Devices

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

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

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

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

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises 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 a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue. ***(Ord. 299 – Aug. 23 Supp.)***

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

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

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

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

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

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

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales

by a hotel or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

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

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

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) "Bar" means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

(Code of Iowa, Sec. 142D.2[1])

(2) "Restaurant" means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

(Code of Iowa, Sec. 142D.2[17])

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee's parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer's dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class "B" retail alcohol license or an establishment employee when employed in compliance with State law.

(Section 120.05 – Ord. 299 – Aug. 23 Supp.)

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration
121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. "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 or tobacco products 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 or who engages in the business of selling tobacco products to ultimate consumers.

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; 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.

1. Cigarette Permits. 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, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (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 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	$ 75.00
October, November, or December	$ 56.25
January, February, or March	$ 37.50
April, May, or June	$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit. ***(Ord. 299 – Aug. 23 Supp.)***

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under twenty-one (21) 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 years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation with a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36[6])

(Section 121.07 – Ord. 303 – Apr. 24 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)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable
122.10 Time Restriction
122.11 Revocation of License
122.12 Hearing
122.13 Record and Determination
122.14 Appeal
122.15 Effect of Revocation
122.16 Rebates
122.17 License Exemptions
122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of 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. Peddlers or Transient Merchants.

A. For one day.....$ 5.00

B. For one week.....$ 25.00

C. For up to six (6) months.....$100.00

D. For one year or major part thereof.....$175.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons 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.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 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.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the North Cedar School District conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year. ***(Ord. 282 – Jan. 22 Supp.)***

(Code of Iowa, Sec. 364.3[13])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of

Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Building Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee
123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 BUILDING PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid building permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – $50,000 per person; $100,000 per accident.

2. Property Damage – $50,000 per accident.

123.06 PERMIT 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 flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 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 inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall 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 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. 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. 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.

5. 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.

6. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

7. 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.

8. 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.

9. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

10. Permit Issued. Upon approval of the application and filing of insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

11. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.10 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.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice, and Accumulations
136.04 Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Permit Required
136.08 Sidewalk Standards
136.09 Barricades and Warning Lights
136.10 Failure to Repair or Barricade
136.11 Interference with Sidewalk Improvements
136.12 Awnings
136.13 Encroaching Steps
136.14 Openings and Enclosures
136.15 Fires or Fuel on Sidewalks
136.16 Defacing
136.17 Debris on Sidewalks
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. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

5. "Portland cement" means any type of cement except bituminous cement.

6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within forty eight (48) hours, the City may have the accumulations of snow or ice removed without notice to the property owner. The costs shall be assessed against the property owner for collection in the same manner as a property tax. ***(Ord. 233 – Jan. 15 Supp.)***

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners 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. A written application for such permit shall be filed with the City.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

   A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

   B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

   C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) within one foot of the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 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 FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (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 or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
40	June 14, 1949		
213	April 11, 2011		
248	February 20, 2017		

CHAPTER 138

STREET GRADES

138.01 Established Grades
138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
21	August, 1926		
25	April, 1927		

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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 Clarence, 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.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted renaming certain streets and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
271	March 9, 2020		

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility
140.06 Permitted Access Points
140.07 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term "controlled access facility" means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. FN-57. On the Primary Road System extension improvement, Project No. FN-57, Primary Road No. 30, within the City, regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-57, on file in the office of the Clerk.

2. Project No. FN-57(7). On the Primary Road System extension improvement, Project No. FN-57(7), Primary Road No. U.S. 30, within the City, described as follows:

> *On the present route of U.S. No. 30 from Station 881-70.0 to Station 907-84.6.*

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-57(7), on file in the office of the Clerk.

3. Project No. FN-57 (Addition). On the Primary Road System extension improvement, Project No. FN-57 (Addition), Primary Road No. U.S. 30, within the City, described as follows:

On the present route of U.S. No. 30 from Station 844+75.6 to Station 875+95.6.

regulating ingress or egress from and across such controlled access facilities.[†]

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. (Repealed by Ordinance No. 281 - Jan. 22 Supp.)

140.06 PERMITTED ACCESS POINTS. Points of access are hereby permitted as follows:

(Code of Iowa, Sec. 306A.4)

1. Project No. FN-57(7). Points of access along Project No. FN-57(7) are permitted as follows:

STATION	SIDE OF STREET	WIDTH	USE OF DRIVE OR ENTRANCE
882-28.4	Right	35 feet	Centerline Alley
882-84	Left	35 feet	Commercial
883-04	Left	35 feet	Commercial
884-10	Left	35 feet	Commercial
884-73	Left and Right		Centerline 8th Street
887-25	Right		Centerline Alley
889-72.9	Left and Right		Centerline 9th Avenue
892-27.4	Left		Centerline County Road
STATION	**SIDE OF STREET**	**WIDTH**	**USE OF DRIVE OR ENTRANCE**
892-68	Right	30 feet	Commercial
907-87	Left	24 feet	Agricultural Farm
907-87	Right		Centerline Connection Road
834-60	Left	18 feet	Agricultural Farm
835-70	Right	15 feet	Agricultural Field

140.07 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.

2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of 35 feet.

[The next page is 635]

[†] **NOTE:** Station 844+75.6 equals Station 834+26.6, 1960 paving plans for Project No. FN-57.

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner
145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures 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 (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (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 CLARENCE, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions
146.02 Conversion to Real Property
146.03 Foundation Requirements

146.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. "Manufactured home community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity's own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:
(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 147

PUBLIC WATER SUPPLY WELLHEAD PROTECTION REGULATIONS

147.01 Purpose
147.02 Definitions
147.03 Substances Regulated
147.04 Maps of Zones of Influence
147.05 Restrictions Within the Primary Protection Zone
147.06 Restrictions Within the Secondary Protection Zone
147.07 Restrictions Within the Zone of Sensitivity
147.08 Exceptions
147.09 Determination of Locations Within Zones
147.10 Enforcement and Penalties
147.11 Inspections
147.12 Notice of Violation and Hearing
147.13 Injunctive Relief

147.01 PURPOSE. The purpose of this chapter is to institute land use regulations and restrictions to protect the City's water supply and well fields, restrict the location of potential sources of contamination in close proximity to a public water supply, and to promote the public health, safety and general welfare of the residents of the City.

147.02 DEFINITIONS.

1. "Alluvium" means sand, clay, etc., gradually deposited by moving water.

2. "Aquifer" means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.

3. "Contamination" means the presence of any harmful or deleterious substances in the water supply.

4. "Flow system boundaries" means a delineation criterion that uses groundwater divides, surface water bodies or other hydrologic/physical features to delineate a Wellhead Protection Area.

5. "Groundwater" means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.

6. "Hazardous substances" means those materials specified in Section 147.03 of this chapter.

7. "Labeled quantities" means the maximum quantity of chemical as recommended on the label, for specific applications.

8. "Person" means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.

9. "Petroleum product" means fuels (gasoline, diesel fuel, kerosene and mixtures of those products), lubricating oils, motor oils, hydraulic fluids and other similar products.

10. "Pollution" means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH, turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

11. "Potable water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

12. "Primary containment" means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

13. "Public utility" means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.

14. "Secondary containment" means the level of product-tight containment external to and separate from the primary containment. Secondary containment consists of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.

15. "Shallow well" means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty-five (25) feet below the normal ground surface.

16. "Time-related capture zone" means the surface or subsurface area surrounding a pumping well(s) that will supply groundwater recharge to the well(s) within some specified period of time.

17. "Toxic substance" means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation or absorption into the body.

18. "Transit" means the act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked (within the wellhead protection area) for a period not to exceed two (2) hours.

19. "Water pollution" means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interfere with the comfortable enjoyment of life or property or the conduct of business.

20. "Well" means a pit or hole sunk into the earth to reach a resource supply such as water.

21. "Well field" means a tract of land that contains a number of wells for supplying water.

22. "Wellhead protection zones" means the zones delineated by fixed radii criterion around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.

23. "Zones of contribution" means the area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

147.03 SUBSTANCES REGULATED. The materials regulated by this chapter are the following:

1. Substances listed in 40 CFR Section 302.4, List of Hazardous Substance and Reportable Quantities.

2. Substances listed by the Iowa Labor Commissioner pursuant to Section 89B.12 of the *Code of Iowa* (Hazardous Chemicals Risks - Right to Know).

3. Substances listed in 40 CFR Section 261, subparts A, B, C and D, Federal Hazardous Waste List.

147.04 MAPS OF ZONES OF INFLUENCE.

1. Maps. Zones of Protection maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps are on file at City Hall. At the time of adoption of the ordinance codified by this chapter, the location of all wells in the City supplying potable water to the City Water System shall be located on the official Wellhead Protection Map with Primary Zone, Secondary Zone and Zone of Sensitivity indicated.

2. Map Maintenance. The zone of protection maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:

A. Changes in the technical knowledge concerning the aquifer.

B. Changes in permitted pumping capacity of City wells.

C. Additions of wells or elimination of existing wells.

D. Designation of new well fields.

3. Wellhead Protection Zones. The zones of protection indicated on the zone of protection maps are as follows:

A. Primary Protection Zone – The area within the two (2) year time-related capture zone of any well supplying potable water to the City Water System.

B. Secondary Protection Zone – The area within the ten (10) year time-related capture zone, excluding the Primary Protection Zone, of any well supplying potable water to the City Water System.

C. Zone of Sensitivity – The area within the twenty (20) year time-related capture zone, excluding the Primary and Secondary Protection Zones, from any well supplying potable water to the City Water System.

147.05 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited.

A. Industrial buildings within the City limits, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa Department of Natural Resources *Separation Distances from Wells* for sources of contamination is complied with. All sites must comply with the restrictions and covenants set by the Clarence City Council.

B. Playgrounds/parks.

C. Wildlife areas, open spaces.

D. Lawns and gardens.

E. Non-motorized trails, such as biking, skiing, nature and fitness trails.

2. Additional restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines.

C. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

147.06 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone. Uses not listed are to be considered prohibited.

A. All uses listed as permitted in the Primary Protection Zone.

B. Sewer - residential and commercial.

C. Above ground storage tanks when incompliant with State Fire Marshal's regulations.

D. Basement storage tanks.

E. Livestock grazing and field cropping activities.

2. Additional restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines.

C. Any person who stores, handles, produces or uses chemicals within the Secondary Protection Zone shall make available the relevant MSDS sheets to the Wellhead Protection Officer regardless of their status under Section 147.08(4).

147.07 RESTRICTIONS WITHIN THE ZONE OF SENSITIVITY.

1. Permitted Uses. The following uses are permitted in the Zone of Sensitivity. Uses not listed are to be considered prohibited.

A. All uses listed as permitted in the Primary Protection Zone.

B. All uses listed as permitted in the Secondary Protection Zone.

C. All uses, handling and storage, when in compliance with, and allowed by, federal, state, and local laws and regulations.

2. Additional restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the Zone of Sensitivity.

B. Any person(s) responsible for discharging or causing or permitting such discharges of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines.

147.08 EXCEPTIONS.

1. The following activities or uses are exempt from the provisions of this chapter:

A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.

B. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.

C. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.

D. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the Secondary Protection Zone and the Zone of Sensitivity.

E. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.

F. Consumer products located in the home which are used for personal, family, or household purposes.

G. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.

H. The use of water treatment chemicals connected with the operation of the well or plant.

2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of the chapter. However, the storage and use of hazardous substances within the primary protection zone, must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance unless exemption is granted by the City Council.

3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this chapter by law shall not be subject to the restrictions contained herein.

4. All requests for permits or special exceptions in the Wesley Wellhead Protection Zones must be made in writing to the City Council. All requests must include a list of all hazardous chemicals (MSDS sheets will be made available upon request) to be stored, handled, used, or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of the City Council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicate that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

147.09 DETERMINATION OF LOCATIONS WITHIN ZONES. In determining the location of properties within the zones depicted on the Zone of Protection Maps, the following rules shall apply:

1. Properties located wholly within one (1) zone reflected on the applicable Zone of Protection Map shall be governed by the restrictions applicable to that zone.

2. For properties having parts lying within more than (1) zone as reflected on the applicable Zone of Protection Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

147.10 ENFORCEMENT AND PENALTIES.

1. The Water Superintendent is designated as the Wellhead Protection Officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this chapter.

2. The Wellhead Protection Inspector(s) shall be the Water Superintendent.

3. No building permit shall be issued which is a violation of the Iowa DNR *Separation Distances From Wells,* a violation of this chapter or a source of contamination for a City well.

4. No new underground tank(s) will be allowed for auxiliary fuel storage in the Primary or Secondary zones.

5. Any person, firm or corporation who fails to comply with the provisions of this chapter shall be subject to the provisions and penalties provided therein.

147.11 INSPECTIONS.

1. The Wellhead Protection Inspector(s) shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer or Inspector to inspect such premises.

2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the

officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.

3. The Wellhead Protection Officer or Inspector shall inspect each City well annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within the Primary and Secondary Protection Zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the Inspector as under 147.08(4).

147.12 NOTICE OF VIOLATION AND HEARING. Whenever an officer or an inspector determines that there is a violation of this chapter, said officer shall give notice thereof, and such notice of violation shall:

1. Be in writing;

2. Be dated and signed by the officer or inspector;

3. Specify the violation or violations; and

4. State that said violation(s) shall be corrected within ten (10) days of the date on which the inspector issued the notice of violation.

147.13 INJUNCTIVE RELIEF. If any person who engages in nonresidential activities stores, handles, uses, and/or produces toxic substances within the wellhead protection zones, as indicated on the Zone of Protection Maps, continues to operate in violation of the provisions of this chapter, then, the City may file an action for injunctive relief in the court of jurisdiction.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Plan

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (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 PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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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, and e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 157

PROPERTY MAINTENANCE CODE

157.01 Purpose
157.03 Adoption of 2018 International Property Maintenance Code
157.03 Amendments, Modifications, Additions, and Deletions

157.01 PURPOSE. The purpose of this chapter is to establish minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures.

157.02 ADOPTION OF THE 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE. That certain documents which are on file and are open for inspection to the public in the office of the City Clerk, being marked and designated the *International Property Maintenance Code* as published by the International Code Council, Inc., be and is hereby adopted as the Property Maintenance Code for the City of Clarence, Iowa; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter.

157.03 AMENDMENTS, MODIFICATIONS, ADDITIONS, AND DELETIONS.

Section 101.1.	Insert:	City of Clarence
Section 103.5.	Insert:	Building Permit Fee Schedule
Section 112.4	Insert:	$50 and $200
Section 302.4.	Insert:	8 inches
Section 303.	Deleted.	
Section 304.14.	Insert:	Delete: "during the period from [date] to [date]" Insert: "when occupied"
Section 307.	Deleted.	
Section 402.	Deleted.	
Chapter 5.	Deleted.	
Chapter 6.	Deleted.	
Chapter 7.	Deleted.	

(Chapter 157 – Ord. 289 – Nov. 22 Supp.)

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CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Statutory Authority; Findings of Fact; Statement of Purpose
160.02 Definitions
160.03 Lands to Which Chapter Applies
160.04 Compliance
160.05 Abrogation and Greater Restrictions
160.06 Interpretation
160.07 Warning and Disclaimer of Liability
160.08 Severability
160.09 Flood Plain Development Permit
160.10 Administration
160.11 Application for Flood Plain Development Permit
160.12 Flood Plain Standards
160.13 Appeals
160.14 Variances
160.15 Conditions for Approving Variances
160.16 Penalties for Violation
160.17 Amendments

160.01 STATUTORY AUTHORITY; FINDINGS OF FACT; STATEMENT OF PURPOSE.

1. The Legislature of the State of Iowa has, in Chapter 414, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents. Therefore, the Council ordains as follows:

2. Findings of Fact.

A. Flood Losses Resulting from Periodic Inundation. The flood hazard areas of the City are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. General Causes of the Flood Losses. These flood losses are caused by: (i) the cumulative effect of development in any flood-prone area causing increases in flood heights and velocities; and (ii) the occupancy of flood-prone areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. Statement of Purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare; to minimize flood losses resulting from periodic inundation; to establish or maintain the City's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 *Code of Federal Regulations* (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(a) by applying the provisions of this chapter to:

A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;

B. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction;

C. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard; and

D. Assure the eligibility is maintained for property owners in the City 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 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, drilling operations, or storage of equipment or materials. Development does not include "minor projects" or "routine maintenance of existing buildings and facilities," as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

4. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the City, and 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) is completed before the effective date of the first floodplain management regulations adopted by the City.

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 that 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 flood waters 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 City.

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, flood proofing and flood plain management regulations.

14. "Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

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 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 of 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 following provisions:

(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 they permit the automatic entry and exit of floodwaters.

B. The enclosed area is unfinished (not carpeted, drywalled, 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 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 listed in paragraphs A through D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than $500.00.

20. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first flood plain management regulations adopted by the City.

21. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first flood plain management regulations adopted by the City.

22. "100-year flood" means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year, or which, on the average, will be equaled or exceeded a least once every 100 years.

23. "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.

24. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition and that do not trigger a

building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

A. Normal maintenance of structures such as re-roofing, replacing roofing tiles, and replacing siding;

B. Exterior and interior painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work;

C. Basement sealing;

D. Repairing or replacing damaged or broken window panes;

E. Repairing plumbing systems, electrical systems, heating or air conditioning systems, and repairing wells or septic systems.

25. "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 community's Flood Insurance Rate Map.

26. "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 or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

27. "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.

28. "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 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

29. "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 50 percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing violations of State or local health, sanitary, or

safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed on or after the effective date of the first flood plain management regulations adopted by the City shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. "Variance" means a grant of relief by the City from the terms of this chapter.

31. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. This chapter applies to all lands within the jurisdiction of the City that have been identified by the City as having the presence of flood-prone areas. In all areas covered by this chapter, no development shall be permitted except through the issuance of a flood plain development permit, granted by the Council under such safeguards and restrictions as the Council may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the City, and as specifically noted in Section 160.12.

160.04 COMPLIANCE. No development located within the flood-prone areas of the City shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

160.05 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 provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.06 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, shall be liberally construed in favor of the Council, and shall not be deemed a limitation or repeal of any other powers granted by the *Code of Iowa*.

160.07 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on the City's knowledge of past flooding. Larger floods may occur on rare occasions or the flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the flood plain or land uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create a liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.08 SEVERABILITY. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this chapter shall not be affected thereby.

160.09 FLOOD PLAIN DEVELOPMENT PERMIT. A flood plain development permit shall be required for all proposed construction or other development, including the placement of factory-built homes, so that it may be determined whether such construction or other development is proposed within flood-prone areas. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate flood plain development permit for each structure or other development.

160.10 ADMINISTRATION. The Zoning Administrator is hereby appointed to administer and implement the provisions of this chapter. Duties of the Flood Plain Administrator include, but are not limited to:

1. Review of all applications for flood plain development permits to assure that sites are reasonably safe from flooding and that the flood plain development permit requirements of this chapter have been satisfied;

2. Review of all applications for flood plain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;

3. Review all subdivision proposals and other proposed new development, including factory-built home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;

4. Issue flood plain development permits for all approved applications;

5. Notify adjacent communities and the Iowa Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and

6. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

160.11 APPLICATION FOR FLOOD PLAIN DEVELOPMENT PERMIT. To obtain a flood plain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every flood plain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;

2. Identify and describe the work to be covered by the flood plain development permit;

3. Indicate the use or occupancy for which the proposed work is intended;

4. Indicate the assessed value of the structure and the fair market value of the improvement;

5. Give such other information as reasonably may be required by the Administrator;

6. Be accompanied by plans and specifications for proposed construction; and

7. Be signed by the permittee or an authorized agent who may be required to submit evidence to indicate such authority.

160.12 FLOOD PLAIN STANDARDS. No permit for flood plain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of factory-built homes, within any flood-prone area unless the conditions of this section are satisfied.

1. All Development. All new construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of factory-built homes, and other developments within flood-prone areas shall require:

A. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

B. Construction with materials resistant to flood damage;

C. Utilization of methods and practices that minimize flood damages;

D. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

E. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems located so as to avoid impairment or contamination; and

F. Wastewater treatment facilities and water supply treatment facilities (other than on-site systems) provided with a level of protection equal to or greater than one foot above the 100-year flood level.

G. Subdivision proposals and other proposed new development, including factory-built home parks or subdivisions, located within flood-prone areas are required to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided so as to reduce exposure to flood hazards.

2. Storage, Material, and Equipment.

A. The storage or processing of materials within flood-prone areas that are in time of flooding buoyant, flammable, or explosive, or which could be injurious to human, animal, or plant life is prohibited unless elevated a minimum of one foot above the 100-year level.

B. Storage of other material or equipment may be allowed if such material or equipment is elevated a minimum of one foot above the 100-year flood level and not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

3. Factory-Built Homes. All factory-built homes to be placed within flood-prone areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, factory-built homes must be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

4. Recreational Vehicles. Recreational vehicles placed on sites within flood-prone areas shall:

A. Be on the site for fewer than 180 consecutive days, or

B. Be fully licensed and ready for highway use; or

C. Meet the permitting and anchoring requirements for factory-built homes of this chapter.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

160.13 APPEALS. The Board of Adjustment shall hear and decide appeals and requests for variances from the flood plain management requirements of this chapter. Where an application for a flood plain development permit or request for a variance from the flood plain management regulations is denied by the Flood Plain Administrator, the applicant may apply for such flood plain development permit or variance directly to the Board of Adjustment. The Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Flood Plain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board 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*.

160.14 VARIANCES. In passing upon applications for variances, the Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this chapter, and the following criteria:

1. The danger to life and property due to flood damage;

2. The danger that materials may be swept onto other lands to the injury of others;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the City;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations, not subject to flood damage, for the proposed use;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

160.15 CONDITIONS FOR APPROVING VARIANCES.

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below highest adjacent grade, providing the requirements of subsections 2 through 5 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued 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 a 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 laws or ordinances.

5. The City shall notify the applicant in writing over the signature of a City official that: (i) the issuance of a variance to construct a structure below highest adjacent grade will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and (ii) such construction below highest adjacent grade increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this chapter.

160.16 PENALTIES FOR VIOLATIONS. Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 and, in addition, shall pay all costs and expenses involved in the case. Each day such a violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

160.17 AMENDMENTS. The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. At least 20

days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this chapter are in compliance with the National Flood Insurance Program (NFIP) regulations.

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CHAPTER 165

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GENERAL PROVISIONS AND DEFINITIONS

165.01 PURPOSE. The purpose of this chapter is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, safety, and general welfare in the City of Clarence, Iowa.

165.02 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

2. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

3. No yard or lot existing as of the effective date of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by these regulations.

4. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

5. All structures existing, as of the effective date of this chapter and which comply with the terms and conditions of this chapter, shall be considered lawful and be allowed to continue and exist or be reconstructed as they currently exist.

165.03 ESTABLISHMENT OF DISTRICTS; OFFICIAL ZONING MAP.

1. Official Zoning Map. The City shall be divided into districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, shall be adopted by ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk. If, in accordance with the provisions of this chapter and Chapter 414, *Code of Iowa*, 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 City Council, with an entry on the Official Zoning Map as follows: "By official action of the City Council, the following changes were made to the Official Zoning Map." (Indicating the changes by ordinance numbers and date of publication.) No amendment of these regulations which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

2. Replacement of the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance 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 Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. _____ of the City of Clarence, Iowa." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

165.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

3. Boundaries indicated as approximately following City limits shall be construed as following such City limits;

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines;

6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries;

8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

9. Whenever the Council vacates and disposes of a street or alley, adjacent districts shall extend to the centerline of the vacation;

10. Whenever a variance exists between the Zoning Map and the legal description on an amendment to this chapter, the legal description applies.

165.05 DEFINITIONS. For purposes of this chapter, the following terms or words used herein are defined. The words "used" and "occupied" include the words "intended, designed, or arranged to be used or occupied." The word "lot" includes the words "plot" or "parcel."

1. "Abutting" means having property or district lines in common.

2. "Access" means a way of approaching or entering a property from a public street.

3. "Accessory buildings" means a subordinate building located on the same lot with the main building, occupied by or devoted to, an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

4. "Accessory use" means a use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal lawful use or building.

5. "Agriculture" means the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, mules, or goats, or any mutations or hybrids thereof including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds; vegetables; or land devoted to a soil conservation or forestry management program.

6. "Alley" means a public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.

7. "Basement" means a story having part but not more than one-half its height above grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five feet.

8. "Bed and breakfast house" means a house or portion thereof where short-term lodging, rooms, and meals are provided. The operator shall live on the premises.

9. "Board" means the Board of Adjustment.

10. "Boarding house" means a building other than a hotel where, for compensation, meals and lodging are provided for four (4) or more persons.

11. "Building" means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs or billboards and not including structures or vehicles originally designed for transportation purposes.

12. "Building, height of" means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

13. "District" means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

14. "Dwelling" means any building, or portion thereof, designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.

15. "Dwelling, multiple" means a building or portion thereof designed for or occupied exclusively for residence purposes by two or more families.

16. "Dwelling, single-family" means a building designed for or occupied exclusively for residence purposes by one family.

17. "Dwelling, zero lot line, single-family attached" means a building designed for or occupied exclusively for residence purposes by one family, which physically adjoins another matching building designed for or occupied exclusively for residence purposes by one family across an abutting side lot line, with each building occupying its own lot.

18. "Elder home" means any residential facility which meets the definition of an elder home as defined in Chapter 414.29 and referenced sections of the *Code of Iowa*.

19. "Family" means one or more persons related by blood, marriage, or adoption occupying a single dwelling unit.

20. "Family home" means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237.

21. "Frost-free foundation" means a foundation supporting a structure and which is required to be at least forty-two inches below grade.

22. "Garage" means a building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank is stored, repaired, or kept.

23. "Garage, private" means a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.

24. "Garage, public or storage" means a building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.

25. "Grade" means the average elevation of the finished ground at the exterior walls of the main building.

26. "Health care facility" means any residential care facility, intermediate care facility, or skilled nursing facility.

A. "Residential care facility" means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours' accommodation, board, personal assistance and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis.

B. "Intermediate care facility" means any institution, place, building or agency providing for a period exceeding 24 consecutive hours' accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or a licensed practical nurse.

C. "Skilled nursing facility" means any institution, place, building, or agency providing for a period exceeding 24 consecutive hours' accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour-per-day basis.

27. "Home occupation" means an occupation conducted in a dwelling unit, provided that:

A. No more than one person, other than members of the family residing on the premises, shall be engaged in such occupation, except by special exception by the Board of Adjustment.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the gross floor area in the dwelling unit shall

be used in the conduct of the home occupation. Any extension of the home occupation beyond 25 percent of the gross floor area of the dwelling unit shall only be approved by special exception of the Board of Adjustment.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than two signs, not exceeding two square foot in area, non-illuminated, and mounted flat against the wall of the principal building.

D. Home occupations shall be allowed in accessory buildings.

E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

28. "Hospital" means an institution which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care over a period exceeding 24 hours of two or more nonrelated individuals suffering from illness, injury, or deformity, or a place which is devoted primarily to the rendering over a period exceeding 24 hours of obstetrical or other medical or nursing care for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding 24 hours of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care; and shall include sanitariums or other related institutions. Provided, however, this does not apply to hotels or other similar places that furnish only food and lodging, or either, to their guests. "Hospital" includes, in any event, any facilities wholly or partially constructed or to be constructed with Federal financial assistance, pursuant to Public Law 725, 79th Congress, approved August 13, 1946.

29. "Hotel" means a building occupied as the more or less temporary residence of individuals who are lodged for compensation with or without meals, in which there are sleeping rooms or suites of rooms with no provision made for cooking in any individual room or suite of rooms, and entrance is through a common lobby or office.

30. "Junk yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

31. "Kennel" (commercial) means an establishment in which dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained, or sold.

32. "Lodging house" means a building originally designed for or used as single-family, two-family, or multiple-family dwelling, all or a portion of which contains lodging rooms or rooming units which accommodate persons who are not members of the keeper's family. Lodging or meals, or both, are provided for compensation. The term "lodging house" shall be construed to include: boarding house, rooming house, fraternity house, sorority house and dormitories.

33. "Lot" means, for purposes of this chapter, a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

A. A single lot of record;

B. A portion of a lot of record;

C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record;

D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

34. "Lot frontage" means the front of a lot shall be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

35. "Lot measurements" are defined as follows:

A. Width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line; provided, however, width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac where 80 percent requirement shall not apply.

B. Depth of a lot shall be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

36. "Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

37. "Manufactured home" means a factory-built structure that is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including (but not limited to) a foundation system, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. A mobile home as defined in Section 435.1 of the *Code of Iowa* is not a manufactured home, unless it has been converted to real property as provided in Section 435.26 of the *Code of Iowa*, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

38. "Mobile home" means any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirtings, and which is, has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term "mobile home" shall include camp car and house car.

39. "Modular home" means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

40. "Motel" (also motor hotel, motor court, motor lodge, or tourist court) means a building or group of buildings designed to provide sleeping accommodations to transient guests for compensation, and provides near each guest room a parking space for the guest's vehicle. A swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.

41. "Nonconformities" means lots, structures, uses of land and structures, or characteristics of uses, which are prohibited under the terms of the Zoning Ordinance but were lawful at the date of enactment of the ordinance.

42. "Nursing or convalescent home" means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled persons, not including insane and other mental cases, inebriate, or contagious cases.

43. "Parking space" means an area of not less than 180 square feet, either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.

44. "Permitted use" means a use by right which is specifically authorized in a particular zoning district.

45. "Principal use" means the main use of land or structures as distinguished from an accessory use.

46. "Projections" (into yards) means parts of buildings such as architectural features that extend beyond the building's exterior wall.

47. "Service station" (gas station) means a building or premises used for dispensing or offering for sale at retail any automobile fuels, oils, or having pumps and storage tanks therefor, or where battery, tire or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.

48. "Setback" means the required distance between every structure and lot line on the lot in which it is located.

49. "Sign" means any advertising device or surface out-of-doors, on or off premises, on which letters, illustrations, designs, figures or symbols are printed or attached and which conveys information or identification.

50. "Statement of Intent" means a statement preceding regulations for individual districts, intended to characterize the districts and their legislative purpose.

51. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

52. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.

53. "Street" means all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefor, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle, or however otherwise designated.

54. "Street line" means the right-of-way line of a street.

55. "Structural alteration" means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

56. "Structure" means anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.

57. "Use" means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.

58. "Variance" means a device used by the Board of Adjustment which grants a property owner relief from certain provisions of a Zoning Ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money and which condition is not of the owner's own making.

59. "Yard" means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, excepting as otherwise provided herein. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. Fences and walls are permitted in any yard, subject to height limitations as indicated herein.

60. "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. On corner lots the front yard shall be either side for the purpose of selecting the rear yard. Corner lots shall meet the front yard requirements on each street frontage. (See chart at the end of this section.)

61. "Yard, rear" means a yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. (See chart at the end of this section.)

62. "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building. On corner lots the yard not designated as front or rear yard shall be considered the side yard. Each corner lot shall have two fronts, a rear, and one side yard. (See chart at the end of this section.)

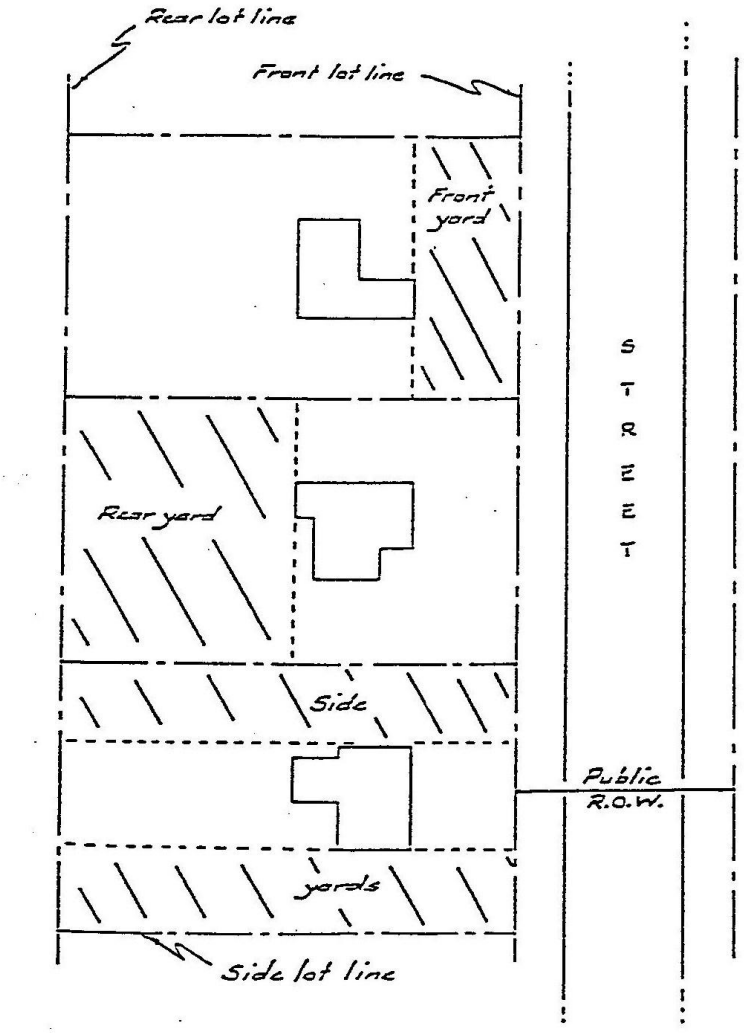
63. "Zoning/Building Administrator" means the local official responsible for reviewing zoning/building permits and following a determination by the Zoning Board of Adjustment for special exceptions and variances. Decisions of the official

may be appealed to the Board of Adjustment. Permits are issued by the Zoning/Building Administrator.

64. "Zoning district" means a section the City designated in the text of the Zoning Ordinance and delineated on the Zoning Map in which requirements for the use of land, the building and development standards are prescribed. Within each district, all requirements are uniform.

65. "Zoning map" means the map delineating the boundaries of districts which, along with the zoning text, comprises the Zoning Ordinance.

CHART — YARD



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NONCONFORMITIES

165.10 NONCONFORMITIES. Within the districts established by this chapter there exist lots, structures, uses of land and structures, and characteristics of use that were lawful before these regulations were adopted or amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

165.11 NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of the chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, if the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through the action of the Board of Adjustment.

165.12 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of adoption of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding $1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these regulations.

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

3. If any such nonconforming use of land ceases for any reason for a period of twelve (12) months, then any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

165.13 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of these regulations by reason of restrictions on area, lot coverage, height, yards, its location

on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in such a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. In addition, it shall be reconstructed on the perimeter as it existed at the time of destruction. Said reconstruction shall begin within one year and be completed within two years of destruction.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

165.14 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of $1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of these regulations, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises) the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

6. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall not eliminate the nonconforming status of the land. The nonconforming structure or premises shall be reconstructed on the perimeter as it existed at the time of the destruction. Said reconstruction shall begin within one year and be completed within two years of

destruction. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction. Replacement shall begin within six months of the time of destruction or the nonconforming status shall expire. Said construction shall also be completed within 18 months of the time of destruction or the nonconforming status shall expire.

165.15 REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, provided that the cubic content of the building as it existed at the time of adoption or amendment of this chapter shall not be increased.

165.16 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NONCONFORMING USES. Any use which is permitted as a special exception in a district under the terms of this chapter (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

[The next page is 761]

DISTRICT REGULATIONS

165.20 DISTRICTS ESTABLISHED. The City is herewith divided into the following districts:

AG	Agricultural District
RS	Residential District
MH	Manufactured Housing District
BC	Business Commercial District
I	Industrial District

These districts are established as identified on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this chapter.

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165.22 AG – AGRICULTURAL DISTRICT.

1. Intent. This district is intended to provide for areas in which agriculture and related uses are encouraged as the principal use of land. However, uses which may be offensive to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic or physical appearance or other similar factors are not permitted. The district prohibits urban density residential use until these areas may be served by utilities and services of the City. This district is also intended to preserve land suited for eventual development into other uses, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities so that reasonably compact development will occur and the fiscal integrity of the City is preserved. All newly annexed areas to the City will automatically be placed into this district classification unless otherwise suitably classified.

2. Permitted Uses. The following uses are permitted in the AG District:

A. Agriculture, including the usual agricultural buildings and structures and excluding offensive uses.

B. Home occupations.

C. Publicly owned and operated buildings and facilities.

3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the AG District.

A. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.

B. Private garages, barns and other farm buildings.

C. Roadside stands offering for sale only agricultural products or other products produced on the premises.

D. Temporary buildings for the uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.

4. 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 to adjacent uses.

A. Cemeteries, crematories or mausoleums.

B. Commercial kennels.

C. Stables, private or public.

D. Greenhouses and nurseries.

E. Publicly operated sanitary landfills.

F. Private recreational camps, golf courses and recreational facilities.

G. Public or private utility substations, relay stations, etc.

H. Churches or accessory facilities (on or off site).

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AG District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
2 acres	150 feet	50 feet	15 feet	50 feet	2½ stories or 35 feet

[The next page is 769]

165.24 RS – RESIDENTIAL DISTRICT.

1. Intent. This district is intended to provide for a variety of residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety and welfare. Low and medium population density neighborhoods are recognized and provided for by varying the minimum bulk regulations. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various residential areas of the City.

2. Permitted Uses. The following uses are permitted in the RS District:

A. Single-family detached dwellings.

B. Multi-family homes.

C. Family homes.

D. Home occupations.

E. Health care facilities.

F. Publicly owned and operated buildings and facilities.

G. Elder Homes.

H. Zero lot line, single-family attached dwellings.

3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RS District:

A. Private garages.

B. Raising and keeping of animals and fowl, but not on a commercial basis or on a scale objectionable to neighbors; the keeping or raising of pigs, sheep, goats, cattle or horses is prohibited except on premises containing two (2) acres or more and except within an enclosure at least 300 feet from any residence now existing or hereafter erected, except that of the owner.

C. Private recreational facilities.

D. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.

E. Parking lots.

4. Special Exceptions. Certain uses may be permitted in the RS District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:

A. Nursery schools.

B. Public or private utility substations, relay stations, etc.

C. Churches or accessory facilities (on or off site).

D. Private schools with a curriculum similar to public schools.

E. Golf courses (but not miniature courses or separate driving tees).

F. Bed and breakfast houses.

G. Hospitals.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RS – Residential District:

Minimum Lot Area*	Minimum Lot Width**	Minimum Front Yard	Minimum Side Yard**	Minimum Rear Yard	Maximum Height (lesser of)
6,000 square feet	50 feet	25 feet	5 feet	10 feet	2½ stories or 35 feet

* All multiple family dwellings and zero-lot line single-family attached housing shall require a minimum of 3,000 square feet of lot area per dwelling unit.

* Where public sewer facilities are not available, a minimum lot area of one acre is required.

** All zero lot line, single-family attached dwellings shall have no minimum side yard on the abutting side lot line and a minimum yard width of 45 feet.

6. Off-Street Parking. The following off-street parking requirements shall apply in the RS District: for multi-family dwellings, two parking spaces on the lot for each dwelling unit, which shall consist of paved asphalt, concrete, or gravel surfacing.

[The next page is 775]

165.26 MH – MANUFACTURED HOUSING DISTRICT.

1. Intent. This district is intended to provide for certain medium density residential areas in the City now developed as manufactured housing/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. This district has useful application as a transition zone between shopping areas and residential areas and is normally located along thoroughfares where direct access to the site is available.

2. Permitted Uses. The following uses are permitted in the MH District:

A. Mobile homes located in approved parks.

B. Manufactured housing located in approved parks.

C. Home occupations.

3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the MH District:

A. Private recreational facilities.

B. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work.

4. 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 to adjacent uses:

A. Public or private utility substation, relay stations, etc.

B. Nursery schools.

C. Churches or accessory facilities (on or off site).

5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the MH District:

A. Each park shall consist of no less than ten dwelling units or two acres, whichever is greater.

B. No dwelling unit shall be located within 15 feet of any other, within five feet of any driveway or parking space, or within 20 feet of the right-of-way line of a street.

C. Each dwelling unit shall be located on a lot having an area of at least 4,000 square feet.

D. Where a park is adjacent to a public street, a sidewalk shall be provided that is at least four feet wide and which is adjacent to that public street.

[The next page is 781]

165.28 BC – BUSINESS COMMERCIAL DISTRICT.

1. Intent. This district is intended to accommodate the major business and office concentration in the City. It is characterized further by a variety of stores and related activities which occupy the central commercial area of the City. This district is intended to be the single central business district of the City and no other use of this district shall be utilized other than contiguously with the currently established BC District.

2. Permitted Uses. The following uses are permitted in the BC District:

A. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products.

B. Offices/clinics.

C. Hotels and motels.

D. Single- and multi-family dwellings.

E. Publicly owned and operated buildings and facilities.

F. For properties within the Clarence Main Street Iowa District, designated as Lombard Street from 115 Lombard Street to 730 Lombard Street and 6th Avenue from Lombard Street to 310 6th Avenue, that portion of the first floor (being the street level) of any building facing the streets designated as the Clarence Main Street Iowa District may only be used for authorized and permitted retail, wholesale, and service businesses as defined in Section 165.28. Residential uses of property within the Main Street Iowa District shall be limited to the rear portion of the building (which may not exceed 50% of the square footage of the first floor of the building). Uses of upper floors in the Main Street Iowa District may include residential uses without any percentage restriction and may overlook the district but are otherwise subject to the limitations of this section. Any residential use in the Main Street Iowa District shall have a separate exterior entrance to the residential portion not located on the street facing the district.

(Subsection F – Ord. 253 – Mar. 18 Supp.)

3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the BC District:

A. Outdoor sales and service.

B. Private garages.

C. Parking lots.

D. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.

E. Accessory uses customarily incidental to any permitted principal use.

4. Special Exceptions. Certain uses may be permitted in the BC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.

A. Warehousing.

B. Outdoor storage or outdoor sales.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the BC District:

Minimum Lot Area	**Minimum Lot Width**	**Minimum Front Yard**	**Minimum Side Yard**	**Minimum Rear Yard**	**Maximum Height (lesser of)**
None, unless used solely for residential purposes, then 6,000 square feet	20 feet	None	None, except if a side yard is provided, it shall be a minimum of 6 feet	None, except if a rear yard is provided, it shall be a minimum of 6 feet	3 stories or 45 feet
Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.					

[The next page is 787]

165.30 I – INDUSTRIAL DISTRICT.

1. Intent. This district is intended to provide areas for activities and uses of a heavy industrial character and is the least restrictive of any district. In the best interest of the City, certain uses in the I District shall be subject to final City Council approval, conditional approval, or denial to insure that proper safeguards are taken. No residential uses are permitted except that commercial parking facilities when equipped with utility hookups shall be allowed for recreational vehicles.

2. Permitted Uses. There may be any use, excluding residential uses. The following uses must be given separate City Council approval before a zoning/building permit is issued:

A. Acid manufacture.

B. Cement, lime, gypsum, or plaster of Paris manufacture.

C. Distillation of bones.

D. Explosive manufacture or storage.

E. Fat rendering.

F. Fertilizer manufacture.

G. Gas manufacture.

H. Garbage, offal, or dead animals, reduction or dumping.

I. Glue manufacture.

J. Petroleum, or its products, refining of.

K. Smelting of tin, copper, zinc, or iron ores.

L. Stockyards or slaughter of animals.

M. Junk yards (must be surrounded by a solid fence at least six feet high located within building lines and the junk piled not higher than the fence).

Before granting such separate approval, the City Council shall refer applications to the Commission for study, investigation, and report. If no report is received in 30 days, the City Council may assume approval of the application.

3. City Council. The City Council shall then, after holding a public hearing, consider all of the following provisions in its determination upon the particular use at the location requested:

A. The proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.

B. Such use shall not impair an adequate supply of light and air to surrounding property.

C. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety.

D. Such use shall not diminish or impair established property values in adjoining or surrounding property.

E. Such use shall be in accord with the intent, purpose, and spirit of this chapter and the Comprehensive Land Use Plan of the City.

4. Required Conditions.

A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed and subject to all State and Federal regulations.

B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least 100 feet from any "R" District boundary, except where adjoining a railroad right-of-way, and 50 feet from any commercial boundary.

5. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the I District.

A. Accessory buildings and uses customarily incidental to a permitted use.

B. Living quarters for watchmen or custodians of industrial properties.

6. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the I District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
None	None	35 feet	None, except when adjacent to an "RS" District, it shall be 10 feet	20 feet	3 stories or 45 feet

[The next page is 793]

SUPPLEMENTARY DISTRICT REGULATIONS

165.40 SUPPLEMENTARY DISTRICT REGULATIONS.

1. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the Planning and Zoning Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

2. Structures to Have Access. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

3. Erection of More Than One Principal Structure on a Lot. In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

4. Accessory Buildings. No accessory building may be erected in any required front or side yard and no separate accessory building may be erected within 10 feet of a main building. Where a garage is entered from the alley, it must be kept 15 feet from the alley line. No accessory building shall be closer than five feet to the rear or side lot line. No accessory building shall be used without occupancy of the principal building.

5. Height Limits. Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tank, water towers, ornamental towers, spires, wireless tower, grain elevators, or necessary mechanical appurtenances are exempt from the height regulations provided in specific district regulations.

6. Projections. Sills, belt courses, cornices, and ornamental features may project only two feet into a required yard.

7. Fire Exits and Chimneys. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than 3½ feet when so placed as not to obstruct light and ventilation, may be permitted by the Zoning/Building Administrator.

8. Porches. Open, unenclosed porches may extend 10 feet into a front yard.

9. Terraces. Terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections are distant at least two feet from the adjacent side lot line.

10. Service Lines. Nothing in these regulations shall have the effect of prohibiting utility service lines.

11. Zero Lot Line, Single-Family Attached Dwellings. The following provisions shall apply to all Zero Lot Line, Single-Family Attached Dwellings:

A. Such dwellings shall be constructed side by side across the zero lot line and no constructed parallel to the zero lot line.

B. Each dwelling unit shall be provided with separate building access.

C. All zero lot line, single-family attached dwellings shall have a common dividing wall on the zero lot line constructed of a fire resistant material equivalent to or greater than one inch of gypsum wallboard.

D. Each dwelling unit shall be provided with a separate sanitary sewer main and water main from the municipal sanitary sewer and water main, but sanitary sewer mains may be laid side by side in a common trench along the zero lot line and so may the water mains.

E. Each dwelling unit shall have its own electrical system separately metered and its own natural gas service, if any.

12. Fences and Walls. The regulations set forth in this subsection regulate the placement of fences in all districts:

A. Materials Regulated. Fences and walls shall be constructed of material commonly used for landscape fencing, such as masonry block, lumber, chain link or natural plantings, but shall not include corrugated sheet metal, barbed wire, salvage material or be electrified unless otherwise allowed in this code.

B. Construction. Fences erected along any lot line shall be constructed in such a manner so as to place all posts, poles, braces and supports on the side of the fence facing the property owned or occupied by the builder of the fence. In addition, the finished surface of any fence shall face toward adjacent properties and street frontage.

C. Height and Location. In residential districts, fences not exceeding six feet in height are permitted to within two feet of side and rear lot lines. A fence or wall not exceeding four feet in height is permitted within the limits of front yards; however, it shall be at least two feet off the sidewalk which parallels the street. Fences above six feet but less than seven feet may be allowed by special exception and no other variances of fence heights shall be allowed on residential properties. In the case of retaining walls supporting embankments, the above requirements shall apply only to the part of wall above the ground surface of the retained embankment.

D. Corner Lots. Fences located on the front and side property lines abutting a street may not exceed three feet in height. If the fence does not provide openings of at least 70 percent in area of the vertical surface to permit the transmission of light, air or vision through the vertical surface at a right angle, a 25 foot visual clearance zone must be observed at all street intersections. A 10 foot visual clearance zone must be observed when a corner front or side property line abuts an alley.

E. Commercial-Industrial. In commercial and industrial districts, nonresidential fences may be up to seven feet in height around the property, provided that all fences located in a front yard are constructed of see-through

material. If barbed wire is needed for security reasons, the height of the fence may be extended another foot to a maximum height of eight feet. However, the barbed wire cannot be closer than seven feet to the ground, and may not overhang any public right-of-way. Any fences higher than these maximum heights or constructed of material other than see-through material in front yards must be approved by special exception by the Board of Adjustment.

F. Grades. Grade for determining the maximum height above grade for fences and walls:

(1) For a fence or wall along a street right-of-way, grade shall be the highest point of the pavement lying between the intersection of the centerline and a projection of the side lot lines.

(2) For a fence or wall between the front lot line and the front building line, grade shall be pro-rated between the grade at the front lot line and the grades at the building.

(3) For a fence or wall along the rear lot line or between the front building line and the rear lot line, grade shall be the grade at the building.

[The next page is 801]

ADMINISTRATION

165.50 ADMINISTRATION AND ENFORCEMENT. A Zoning/Building Administrator designated by the City Council shall administer and enforce these regulations. The Administrator may be provided with the assistance of such other persons as the City Council may direct. If the Zoning/Building Administrator shall find that any of the provisions of this chapter are being violated, said official shall notify in writing the person responsible for such violations, indicating the nature of the violation and noting the action necessary to correct it. The Administrator shall also notify the City Attorney, who shall take any action necessary to correct the violation.

165.51 ZONING/BUILDING PERMIT REQUIRED. No building, sidewalk, fence, deck, structure, or conversion of residential property which involves the addition of residential units, shall be erected, moved, demolished, or added to, without a zoning/building permit therefor issued by the Zoning/Building Administrator. No zoning/building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. Fees for zoning/building permits shall be as provided by Council resolution. Zoning/building permits shall be applied for with the City Clerk and shall expire one year after the date of issuance if work is begun within 180 days of issuance or after 180 days if no substantial beginning of construction has occurred. Extensions of time may be granted in writing by the Zoning/Building Administrator for good cause. The zoning/building permit fee is set by resolution of the Council.

165.52 RESIDENTIAL DWELLING STANDARDS. All single-family dwelling units shall meet the following minimum standards:

1. The minimum width of a dwelling structure or principal building shall be 20 feet at the exterior dimension of three or more exterior walls, exclusive of attached garages, porches or other accessory structures.

2. All dwelling units including attached garages shall be placed on a permanent frost-free foundation.

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BOARD OF ADJUSTMENT

165.60 BOARD OF ADJUSTMENT; ESTABLISHMENT AND PROCEDURE.

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling of real estate.

2. 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 chapter. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in that person'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 variance 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/Building Administrator.

165.61 BOARD OF ADJUSTMENT; POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning/Building Administrator in the enforcement of these regulations.

A. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City of Clarence affected by any decision of the administrative officer. Such appeal shall be taken within 60 days by filing with the Zoning/Building Administrator, and with the Board a notice of appeal specifying the grounds thereof. The Zoning/Building Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

B. The Board shall fix a reasonable time for the hearing of the appeal, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City thereof, and decide the same within 30 days. At said hearing, any party may appear in person, by agent or by attorney.

C. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning/Building 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/Building Administrator from whom the appeal is taken and on due cause shown.

2. Special Exceptions: Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City thereof, and decide the same within 30 days.

C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, that the granting of the special exception will not adversely affect the public interest.

3. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating that:

(1) 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;

(2) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(3) The special conditions and circumstances do not result from the actions of the applicant;

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

No nonconforming use of neighboring, lands, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or

buildings in other districts may be considered grounds for the issuance of a variance.

B. The Board shall fix a reasonable time for the hearing of the variance, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City thereof, and decide the same within 30 days.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. 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.

E. The Board of Adjustment shall further made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

F. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning/Building Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

G. 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 30 days from the date of the remand.

165.62 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, department, board or bureau of the City, or other areas subject to this chapter 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*.

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ENFORCEMENT AND AMENDMENTS

165.70 ADMINISTRATION. All questions of interpretation and enforcement shall be first presented to the Zoning/Building Administrator, or that person's assistant, and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning/Building Administrator, and recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414, *Code of Iowa*.

165.71 AMENDMENTS. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least 7 days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than 20 days prior to the hearing. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding Section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of 20 percent or more of the area of the lots included in the proposed change or repeal, or by the owners of 20 percent or more of the property which is located within 200 feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths (¾) of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. Proposed amendments not recommended by the Planning and Zoning Commission shall become effective only upon a favorable vote of three-fourths (¾) of the members of the City Council. All zoning amendment application forms shall be approved by resolution of the City Council.

165.72 VIOLATION. Failure to comply with the provisions of this chapter or with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a violation of this chapter. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other legal action as is necessary to prevent any violation.

165.73 SCHEDULE OF FEES, CHARGES, AND EXPENSES. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, zoning permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning/Building Administrator and the City Clerk and may be altered or amended only by the City Council, as recommended by the Planning and Zoning Commission. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

165.74 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such

complaint, stating fully the causes and basis thereof, shall be filed with the Zoning/Building Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map of the City, adopted by Ordinance No. 154 on April 10, 2000, and have not been codified herein, but are specifically saved from repeal and are in full force and effect.

ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
178	July 11, 2005		
190	June 11, 2007		
204	August 10, 2009		
206	March 8, 2010		
208	July 12, 2010		
214	May 9, 2011		
215	July 11, 2011		
246	August 8, 2016		
292	March 13, 2023		

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CODE OF ORDINANCES
CITY OF CLARENCE, IOWA

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