CODE OF ORDINANCES

OF THE

CITY OF

POLK CITY, IOWA

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CODE OF ORDINANCES
OF THE
CITY OF POLK CITY, IOWA

Adopted December 13, 2021, by Ordinance No. 2021-2400

SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Jan-22	Ch. 125	2021-2100	11-22-21	Mobile Food Vendors
	57.04	2021-2200	11-22-21	Seizure, Impoundment, and Disposition
	69.09(153-155)	2021-2300	12-13-21	No Parking Zones
		2021-2400	12-13-21	Adopting Ordinance
	Ch. 137	2021-2500	11-8-21	Vacating Roadway Easement
	Ch. 137	2021-2600	11-8-21	Vacating Easements
Apr-22	155.09	2022-1100	2-14-22	Fire Codes
Feb-23	6.07(1); 6.07(1A)	2022-1000	1-10-22	Redistricting Plan for Precincts
	Ch. 165	2022-1200	3-14-22	Rezoning from R-2A to C-2 and from C-2 and R-1 to R-2
	Ch. 165	2022-1300	4-28-22	Zoning Restrictions on Property at 302 S 2nd Street
	63.04(1)(A)	2022-1400	5-9-22	Special Speed Restrictions
	Ch. 165	2022-1500	6-13-22	Rezoning from A-1 to R-1
	92.02	2022-1600	6-13-22	Water Rates
	99.01	2022-1700	6-13-22	Sewer Service Charges
	Ch. 137	2022-1800	8-8-22	Vacating Ingress/Egress Easement
	Ch. 165	2022-1900	9-12-22	Rezoning from A-1 to R-1
	Ch. 137	2022-2000	1-24-22	Vacating Right-of-Way Easement
	101.01(38A); 101.01(71); 101.01(73A); 101.01(79); 101.10(9); 101.10(12); 101.20(1)(A-E); 101.20(1)(H); 101.20(1)(K-L); 101.20(2); 101.23; 101.24; 101.25; 101.43; 101.44(1)(G); 101.44(1)(K); 101.44(2)(F); 101.46(1); 101.58(2); 101.58(3)(A-B); 101.58(3)(E)(2); 101.60(1); 101.61; 101.70(2); 101.73; 101.74; 101.75; 101.77	2022-2100	9-12-22	Regulation of Industrial Wastewater, Commercial Wastewater, and Hauled Waste
	Ch. 166	2022-2200	8-8-22	Signs
	Ch. 165	2022-2300	11-14-22	Rezoning from R-2 and R-2A to R-1
	75.02(5); 75.05(1); 75.05(6)(E)	2022-2400	11-28-22	All-Terrain Vehicles and Off-Road Utility Vehicles
	Ch. 165	2022-2500	1-9-23	Rezoning from R-1 to PUD

SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Feb-23 (Cont.)	165.09(7)(A); 165.11(3)(C); 165.18(1)(D); 165.18(4)(A)	2022-2600	1-23-23	Off-Street Parking Area
Nov-23	Ch. 137	2023-1000	1-9-23	Vacating Easement
	Ch. 165	2023-2000	2-27-23	Rezoning from A-1 to C-2
	55.01(7); 55.01(16); 55.23	2023-3000	2-27-23	Animal Protection and Control
	Ch. 165	2023-4000	3-27-23	Rezoning from C-1 to U-1
		2023-5000		Did Not Pass
		2023-6000		Did Not Pass
		2023-7000	4-25-23	RAGBRAI
	165.04; 165.12; 165.14; 165.19(4)(C)	2023-8000	5-22-23	Zoning Regulations for the U-1 Public Utility and GF Government Facility District
	115.12	2023-8100	11-13-23	Cable Television Regulations
	92.02	2023-9000	6-26-23	Water Rates
	99.01	2023-9100	6-26-23	Sewer Service Charges
	165.23(5)(D)(5)	2023-9200	7-24-23	Zoning Regulations
	Ch. 57	2023-9300	8-28-23	Dangerous and Vicious Animals
	120.04; 120.05; 121.05	2023-9400	10-9-23	Liquor Licenses and Cigarette and Tobacco Permits
	7.02; 7.03(3); 7.05; 7.08	2023-9500	10-9-23	Fiscal Management
	69.12	2023-9600	10-23-23	Snow Ordinance
	Ch. 165	2023-9700	11-13-23	Rezoning from R-1 to R-3
		2023-9800		Did Not Pass
		2023-9900		Did Not Pass

CODE OF ORDINANCES

CITY OF POLK CITY, IOWA

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APPENDIX:

CHAPTER 1

CODE OF ORDINANCES

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

3. "Clerk" means the City Clerk of Polk City, 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 Polk City, Iowa.

6. "Council" means the City Council of Polk City, Iowa.

7. "County" means Polk County, Iowa.

8. "IAC" means the Iowa Administrative Code.

9. "May" confers a power.

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

11. "Must" states a requirement.

12. "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.

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

14. "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.

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

16. "Shall" imposes a duty.

17. "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.

18. "State" means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board, or officer or employee

of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny, or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. The penalty for violation of a City ordinance shall be the same penalty as for a simple misdemeanor. Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

(Code of Iowa, Sec. 364.3[2])

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CHAPTER 2

CHARTER

2.01 TITLE. This chapter may be cited as the Charter of the City of Polk City, 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[3])

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CHAPTER 3

MUNICIPAL INFRACTIONS

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

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

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

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

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

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

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

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

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

1. Standard Civil Penalties.

   A. First offense – not to exceed $750.00

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

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

2. Special Civil Penalties.

   A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an

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

industrial user is punishable by a penalty of not more than $1,000.00 for each day a violation exists or continues.

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

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

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

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

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

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

1. The name and address of the defendant.

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

3. The location and time of the infraction.

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

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

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

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

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

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

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

3.06 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. In addition to any other provision of this Code of Ordinances specifying criminal penalties, the City hereby specifically provides for criminal penalties allowed by Iowa law for simple misdemeanors but specifically excluding imprisonment, for violations of the following:

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

1. Section 41.12, Discharge Firearm
2. Section 41.12, Throwing or Shooting Objects
3. Section 41.13, Urinating and Defecating
4. Section 55.02, Animal Neglect
5. Section 55.06, Animal at Large
6. Section 57.03, Keeping of Vicious Animals
7. Section 152.01, Removal of Weeds

3.07 FAILURE TO PAY A CIVIL CITATION.

1. Delinquent Offender. "Delinquent Offender" means any person that has at least one unpaid citation or municipal infraction of a violation of this Code of Ordinances that has remained unpaid for 120 days or more. It shall be a separate citable offense to be a Delinquent Offender of this Code of Ordinances. A Delinquent Offender administrative fee of $35.00 may be assessed against any such offender, which fee shall be in addition to any fine otherwise due pursuant to this Code of Ordinances.

2. Collection. A default in the payment of a fine or penalty, or any installment of a fine or penalty, may be collected by any means allowable for the collection of monetary judgments. The City Attorney and/or a private collection agent may be retained for the purpose of collecting any default in payment or any fine or penalty or installment of a fine or penalty, or any combination thereof. Any fees or costs incurred by the City with respect to attorneys or private agents retained under this section shall be charged to the offender.

3. Denial of Licenses and Permits. In addition to any other means provided bylaw, the City may collect any past due citation fine, late payment charge, costs, taxes, or fees by declining to issue or renew any license, permit, zoning variance, or other permission applied for by the responsible party under this Code of Ordinances until the responsible party pays such fine, charge, costs, taxes, and fees.

3.08 HABITUAL OFFENDERS. "Habitual Offender" means any person that on at least three occasions within a 12-month period has: (i) received a citation, either civil or criminal, of a violation of this Code of Ordinances; or (ii) has had abatement action initiated against any property the habitual offender owns. It shall be a separate citable offense to be a Habitual Offender of this Code of Ordinances. A Habitual Offender administrative fee of $35.00 may be assessed for each citation above three issued to the same violator within any 12-month period, which fee shall be in addition to any fine otherwise due pursuant to this Code of Ordinances.

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CHAPTER 5

OPERATING PROCEDURES

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

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

(Code of Iowa, Sec. 63.1)

2. Prescribed Oath. The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Polk City 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 Manager

C. City Clerk

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.
(Code of Iowa, Sec. 362.5[3k])

12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.
(Code of Iowa, Sec. 362.5[3l])

5.08 RESIGNATIONS. An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected if, during that time, the compensation of the office has been increased.
(Code of Iowa, Sec. 372.13[9])

5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES. Except as otherwise provided by State or City law, all persons appointed to City office or employment may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within 30 days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within 30 days after the date the request is filed, unless the person removed requests a later date.
(Code of Iowa, Sec. 372.15)

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

5.11 GIFTS. Except as otherwise provided in Chapter 68B of the *Code of Iowa*, a public official, public employee or candidate, or that person's immediate family member, shall not, directly or indirectly, accept or receive any gift or series of gifts from a "restricted donor" as defined in Chapter 68B and a restricted donor shall not, directly or indirectly, individually or jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee, or candidate.
(Code of Iowa, Sec. 68B.22)

5.12 REMOVAL OF ELECTED OFFICERS.

1. Grounds. Any City officer elected by the people may be removed from office after hearing as hereinafter provided by a two-thirds vote of the entire Council for any of the following reasons:

A. Grossly neglecting or refusing to serve by failure to attend all official meetings for a period of three months or more (excusable illness or emergencies excepted) or to sign papers, carry out duties clearly incumbent upon the officer to do, or otherwise exhibit failure to serve.

B. Unable to attend any official meetings or carry out duties due to physical or mental infirmities that appear, upon careful inquiry, to be of such severe or chronic character as to preclude rendering necessary services expected of the office for six months.

C. By such mental or physical incapacity that the officer is unable to properly exercise the officer's official duties even when present or on the job.

D. Committing such acts as would be grounds for an equitable action for removal in the district court.

2. Council Hearing. The Council, upon adopting a motion setting a public hearing, shall cause notice to be given by certified mail to the officer for which removal is sought. Such notice shall be mailed not less than 10 or more than 20 days before said hearing. In the case of severe physical or mental disability, said notice may be given to said person's attorney, or to a person holding the power of attorney, or to the next of kin if there is no known attorney, if notice to the person would not be of practical effect. Refusal by the person to accept notice, inability to deliver notice because of frequent absence from the person's usual place of abode for extended periods, or other cause of failure to complete notice may be noted at hearing, but shall not bar the proceedings if notice has been diligently tried (and the efforts recited in the record).

3. Presentation of Case for Removal. The Council shall constitute the hearing body for other than Council members, but where a Council member is sought to be removed, the remaining members of the Council shall constitute the hearing body. The Council, at the time of making motion to hold a hearing for considering the removal of an elected officer, shall designate the president of the hearing, who shall be the Mayor in all cases except that if the Mayor is the one sought to be removed, it shall be the Mayor Pro Tem. The Council shall name one of its members to present the cause for removal, and municipal officers possessing pertinent facts shall provide such data upon request, including attendance record and testimony in writing, and the above data shall be presented as written affidavits. If medical or other professional evaluations are needed, depositions may be taken and presented unless personal testimony of such authorities is deemed necessary to understand the circumstances more fully.

4. Declaration of Vacancy. If it appears from the facts established at the hearing that grounds for removal exist, the Council may order removal of the person from office and declare the office vacant, but only upon a two-thirds vote of the entire Council. Said removal shall take effect the date after said vote and order. Where removal is consummated, the vacancy shall be filled promptly in the manner prescribed by law for filling vacancies in positions filled by election by the people. The record of the hearing shall be entered in the proceedings of the Council and the written charges, data, and affidavits be safely filed with the municipal records.

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CHAPTER 6

CITY ELECTIONS

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 25 eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

6.07 ELECTION PRECINCT. For the purpose of best serving the convenience of the voters, there is established the following election precinct within the City.

1. The City shall be divided into precincts as required by Chapter 49 of the *Code of Iowa* in the following manner:

   A. Precinct Number 1 is that part of the City of Polk City lying within the following described perimeter:

   Beginning at the intersection of N. 3rd Street and Walnut Street; thence northwesterly along Walnut Street to N. 5th Street; then southwesterly along S. 5th Street to W. Broadway Street; thence northwesterly along

W. Broadway Street to Bennett Street; thence southwesterly along Bennett Street to a 90-degree bend in Bennett Street; thence southeasterly along Bennett Street to Booth Street; thence southwesterly along Booth Street to W. Washington Avenue; thence westerly along W. Washington Avenue to Parker Boulevard; thence northwesterly along Parker Boulevard to W. Washington Avenue; thence westerly along W Washington Avenue to the corporate limit line; thence southerly along the corporate limit line to W. Bridge Road; thence easterly along W. Bridge Road to the corporate limit line; thence counterclockwise along the corporate limit line to S. 3rd Street (NW Polk City Drive); thence southeasterly along S. 3rd Street (NW Polk City Drive) to the corporate limit line; thence clockwise along the corporate limit line to NW 44th Street; thence northerly along NW 44th Street to E. Southside Drive (NW 110th Street); thence westerly along E. Southside Drive (NW 110th Street) to the corporate limit line; thence counter clockwise along the corporate limit line to NW 110th Place; thence northeasterly along NW 110th Place to the corporate limit line; thence clockwise along the corporate limit line to E. Northside Drive (NW 118th Avenue); thence westerly along E. Northside Drive (NW 118th Avenue) to N 3rd Street; thence southwesterly along N 3rd Street to Walnut Street and the point of beginning.

2020 Census Population – 2,748

B. Precinct Number 2 is that part of the City of Polk City lying within the following described perimeter:

Beginning at the intersection of N. 3rd Street and Walnut Street; thence northwesterly along Walnut Street to N. 5th Street; then southwesterly along S. 5th Street to W. Broadway Street; thence northwesterly along W. Broadway Street to Bennett Street; thence southwesterly along Bennett Street to a 90-degree bend in Bennett Street; thence southeasterly along Bennett Street to Booth Street; thence southwesterly along Booth Street to W. Washington Avenue; thence westerly along W. Washington Avenue to Parker Boulevard; thence northwesterly along Parker Boulevard to W. Washington Avenue; thence westerly along W Washington Avenue to the corporate limit line; thence clockwise along the corporate limit line to N. Broadway Street; thence northwesterly along W. Broadway Street to the corporate limit line; thence clockwise along the corporate limit line to NW 9th Street (NW 72nd Street); thence south along NW 9th Street (NW 72nd Street) to NW Hugg Drive; thence southeasterly along NW Hugg Drive to N. 3rd Street (NW Sheldahl Drive); thence southwesterly along N. 3rd Street (NW Sheldahl Drive) to the corporate limit line; thence clockwise along the corporate limit line to Northside Drive (NW 118th Avenue); thence westerly along Northside Drive (NW 118th Avenue) to N. 3rd Street; thence southwesterly along N. 3rd Street to Walnut Street and the point of beginning.

2020 Census Population – 2,795

(Subsection 1 – Ord. 2022-1000 – Feb. 23 Supp.)

1. 1A.Election Precinct No. 1 and No. 2 shall be detailed on the map on file in the office of the City Clerk. ***(Ord. 2022-1000 – Feb. 23 Supp.)***

2. Polling Places. Polling places shall be determined by the Polk County Election Commissioner to best serve the needs of the precinct.

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CHAPTER 7

FISCAL MANAGEMENT

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 City Manager and/or finance officer is the finance and accounting officer of the City and is responsible for the administration of the provisions of this chapter. ***(Ord. 2023-9500 – Nov. 23 Supp.)***

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

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

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

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

3. Petty Cash Fund. The finance officer hall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses. ***(Ord. 2023-9500 – Nov. 23 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.

(545 IAC 2.5[2])

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

(545 IAC 2.5[3])

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

(545 IAC 2.5[4])

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

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

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

(545 IAC 2.5[5])

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

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

1. Proposal Prepared. The 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 March 15 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 20, 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)(1-9) 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. 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 and copies of the statements mailed under this section.

(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 the same day as the publication of the notice.

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. 2023-9500 – Nov. 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.

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: City Clerk, City Manager, Finance Officer, Deputy City Clerk, or Accounting Specialist, following Council approval, except as provided by Subsection 5 hereof. Notwithstanding anything

contained herein, no City employee or official shall sign any check which authorizes payment to the person signing the check.

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. 2023-9500 – Nov. 23 Supp.)

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CHAPTER 8

URBAN RENEWAL

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.

ORDINANCE NO.	ADOPTED	NAME OF AREA
89-108	June 26, 1989	Knapp Project
89-111	September 11, 1989	Lint Project
90-102	August 13, 1990	Amend Urban Renewal District
91-1100	July 22, 1991	West Trunk Area
94-101	March 14, 1994	Goldfinch Park Project
94-108	May 23, 1994	Arrow Ridge Plat 1
95-113	September 25, 1995	Park Place Project
95-114	September 25, 1995	Arrow Ridge Plat 2
96-500	August 26, 1996	Kum & Go Site
96-600	August 26, 1996	Sandpiper Point Plat 1
96-1000	December 9, 1996	Black Forest
2010-1200	April 12, 2010	Urban Renewal Project Area II
2010-1300	April 12, 2010	Koester Construction TIF Area
2016-2800	December 12, 2016	Amended Area II Urban Renewal Area
2016-2900	December 12, 2016	Deer Haven Urban Renewal Area
2020-1700	October 12, 2020	Polk City II Urban Renewal Area

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CHAPTER 10

HOTEL AND MOTEL TAX

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

1. "Lodging" means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, room house, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals.

2. "Rent" or "renting" means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration, and includes any kind of direct or indirect charge for such lodging or its use.

10.02 TAX IMPOSED. There is imposed a seven percent hotel and motel tax upon the gross receipts from the rent of any and all lodging within the corporate boundaries of the City.

10.03 EXEMPTIONS. The exemptions from said tax as set forth in Section 423A.5 of the *Code of Iowa*, as amended, are adopted by reference and made a part hereof as though fully set forth herein.

10.04 RESTRICTIONS. The revenue derived from the tax imposed in this chapter shall be used for the purposes supporting local and regional recreation, convention, cultural, and entertainment facilities, for the promotion and encouragement of tourist and convention business, and for other purposes permitted by Chapter 423A of the *Code of Iowa* (2013).

10.05 EFFECTIVE DATE. The tax as set forth in this chapter shall be imposed on all gross rent receipts received on or after January 1, 2014.

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CHAPTER 15

MAYOR

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. Supervise all departments of the City, except for supervisory duties delegated to the City Manager, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
(Code of Iowa, Sec. 372.14[1])

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

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

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.
(Code of Iowa, Sec. 380.5 and 380.6[2])

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.4)

1. Library Board of Trustees
2. Parks Commissioners
3. Tree Board
4. Planning and Zoning Commission
5. Zoning Board of Adjustment
6. Police Chief

15.04 COMPENSATION. The salary of the Mayor is $7,500.00 per year, payable monthly. In addition, the Mayor shall receive a reimbursement of 50 percent of the cost of a single membership to a fitness center located within the City limits.

(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)

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CHAPTER 16

MAYOR PRO TEM

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

(Code of Iowa, Sec. 364.2[1], 384.16 and 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, Ch. 26.10)

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

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

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

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

8. Waiver of Fees. In addition to the powers of the Council specifically enumerated in this section, the Council shall have the authority, by resolution, to waive the collection of the charges imposed for sewer connection fees under Section 96.02, the collection of the meter deposit under Section 99.03, the collection of water connection fees under Section 90.06, and the collection of building permit fees under Section 156.06, if such waiver is requested by the federal government, the State, the school district, or any other political subdivision of the State, and provided that the granting of such waiver is in the best interest of the citizens of the City.

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

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

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

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

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

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

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

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

5. Compelling Attendance. Any three 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 Manager
3. City Attorney

17.06 COMPENSATION. The salary of each Council member is $3,000.00 per year, paid annually. In addition, Council members shall receive a reimbursement of 50 percent of the cost of a single membership to a fitness center located within the City limits.

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

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CHAPTER 18

CITY CLERK

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City, except that ordinances and amendments may be published by posting in the following places:

City Hall
Post Office
Library

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than 10 days after the first date of posting.

Unauthorized removal of the posted ordinance or amendment prior to the completion of the 10 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.

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

18.09 ATTENDANCE AT MEETINGS. The Clerk shall attend all regular and special Council meetings, and, at the direction of the Council, the Clerk shall attend meetings of

committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 670.8)

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five resident members. All members are to be appointed by the Mayor with the approval of the Council.

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of 18 years.

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.

2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. 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.

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

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

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

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

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be

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

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

21.08 EXPENDITURES. The library's claims list shall be submitted by the Library Director and signed by the Board President. Expenditures shall be paid out of the money appropriated by the Council for the operation and maintenance of the library.

(Code of Iowa, Sec. 384.20 and 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure to Return. Failure to return Library materials for two months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material

2. 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)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 22

PLANNING AND ZONING COMMISSION

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

(Code of Iowa, Sec. 414.6 and 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

6. Review and Comment on 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 30 days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

7. Appeal Board for Floodplain Management. Act as an appeal board upon request in specific cases to decide requested variances from the terms of Chapter 160 of this Code of Ordinances.

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

(Code of Iowa, Sec. 392.1)

9. 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)

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

(Code of Iowa, Sec. 392.1)

22.06 ABSENTEEISM. Any Commission member may be removed from the Commission by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Commission. Any Commission member may be removed from the Commission for good and sufficient cause upon recommendation of the Commission, with the concurrence of the Mayor and the City Council. In addition, two unexcused absences, or three total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Commission. The Mayor shall appoint or recommend to Council a replacement and, with the approval of the Council, shall fill such vacancy for the unexpired term.

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CHAPTER 23

PARKS COMMISSION

23.01 PARKS COMMISSION ESTABLISHED. There is hereby established a Parks Commission of the City as an advisory body to advise and assist the Council in exercising its power to establish, purchase, maintain, and regulate the use of swimming pools, parks, and playgrounds, and to provide swimming pools and recreational and playground facilities.

23.02 COMPOSITION; TERMS OF OFFICE. The Parks Commission consists of seven members whose terms of office shall be five years, on a staggered basis, and who are appointed by the Mayor, subject to the approval of the Council. A majority of the members of the Parks Commission constitutes a quorum, and it is necessary that a quorum be present for the Parks Commission to conduct its business.

23.03 ORGANIZATION. All Commission members shall organize as a board by the election of one of their number as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability and one as Secretary.

23.04 COMPENSATION. All Commission members serve without compensation except for their actual expenses, which are subject to the approval of the Council.

23.05 ABSENTEEISM. Any Commission member may be removed from the Commission by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Commission. Any Commission member may be removed from the Commission for good and sufficient cause upon recommendation of the Commission, with the concurrence of the Mayor and the City Council. In addition, two unexcused absences, or three total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Commission. The Mayor shall appoint or recommend to Council a replacement and, with the approval of the Council, shall fill such vacancy for the unexpired term.

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CHAPTER 25

CITY MANAGER

25.01 APPOINTMENT AND TERM. The Council shall appoint by majority vote a City Manager to serve at the discretion of the Council.

25.02 COMPENSATION. The City Manager shall receive such annual salary as the Council shall from time to time establish by resolution.

25.03 ADMINISTRATIVE RESPONSIBILITY. The City Manager is directly responsible to the Council for the administration of municipal affairs as directed by that body. All departmental activity requiring the attention of the Council shall be brought before the Council by the City Manager, and all Council involvement in administration initiated by the Council must be coordinated through the City Manager.

25.04 DUTIES. The City Manager shall have the following powers and duties:

1. Administration. Supervise and direct the administration of the City government.

2. Supervise Officers. Supervise and direct the official conduct of all appointed officers of the City.

3. Manage Property. Manage all buildings and property under the jurisdiction of the City.

4. Personnel. Appoint, promote, reassign, reclassify, discipline, demote, suspend, and discharge all employees in compliance with policy, law, and ordinance. Employ any person for emergency purposes as deemed necessary for the welfare of the City.

5. Compensation of Employees. Fix the compensation of all employees appointed by said City Manager, subject to the approval of the Council.

6. Investigation. Investigate, summarily and without notice, the conduct and affairs of any department, agency, officer, or employee of the City.

7. Law Enforcement. Supervise the enforcement and execution of all laws and ordinances within the City.

8. Contracts. Supervise the performance of all contracts for work to be done for the City.

9. Purchasing. Supervise the purchase and receipt of all materials, services, and supplies for and on behalf of the City. Authorize purchases for budgeted items up to $10,000.00 without further Council authorization.

10. Public Works. Supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements, and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for capital improvements.

11. Attend Meetings. Attend all meetings of the Council and City administrative agencies.

12. Recommendations. Recommend to the Council any measures as are necessary or expedient for the good government and general welfare of the City.

13. Liaison. Maintain liaison with citizens, businesses, developers, builders, engineers, other governmental agencies and administrative agencies of the City.

14. Accounting. Supervise the City Finance Officer and ensure that the business affairs of the City are conducted by modern and efficient accounting methods and cause accurate records to be kept.

15. Budget. Prepare and submit to the Council annually the required operating and capital improvement budgets. Provide ongoing supervision of the City's annual budget.

16. Financial Reports. Submit a written, itemized financial report to the Council each month, showing receipts, disbursements, and investments for the preceding month. Keep the Mayor and Council advised as to the financial conditions and future needs of the City and to make recommendations, as necessary.

17. Licenses. Provide for the issuance, suspension, and revocation of all licenses and permits authorized or required by law or ordinance.

18. Oaths. Administer oaths.

19. Policies and Procedures. Administration of all ordinances, resolutions, Council policies, and directives. Continuously study the City's operational procedures, organization and facilities and make recommendations to the Council wherever necessary.

20. Planning. Coordinate the implementation of the City's comprehensive plan, long term capital improvement plan, and all other forms of planning with the City.

21. Other. Exercise such other powers and perform such other duties as may be directed by the Council.

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CHAPTER 26

CITY TREE BOARD

26.01 ESTABLISHMENT. There is hereby created and established a City Tree Board. The Board shall consist of not less than five members. The exact number of Board members may vary from year to year. A majority of the Board shall be residents of the City and shall be appointed by the Mayor with approval of the Council. Members shall serve without compensation.

26.02 TERM OF OFFICE. Members of the City Tree Board are appointed for staggered terms of five years, commencing January 1 of the year of appointment. In the event a vacancy shall occur during the term of any member, the Mayor shall appoint a successor for the unexpired portion of the term with the approval of the Council.

26.03 DUTIES AND RESPONSIBILITIES. It shall be the duty and responsibility of the City Tree Board to establish a list of acceptable tree species to be planted in the public right-of-way and to provide such list to the Clerk for public inspection and copying. The Board shall have the authority, from time to time, to update and amend said list. It shall be the further duty and responsibility of the Board to review and give advice to the Public Works Director concerning approval of plans submitted pursuant to Section 151.03 of this Code of Ordinances. It is further the duty and responsibility of the Board to study, investigate, report on, and make recommendations to the Council on issues related to the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. The Board shall make a report to the Council at least annually. The Board, when requested by the Council, shall consider, investigate, make findings, report, and make recommendations upon any special matter or question coming within the scope of its work. The Board shall not make, or commit the City to make, any expenditure of public funds except upon the prior approval of the Council.

26.04 PROCEDURE. The Board shall choose its own officers, determine its meeting times, and establish its own rules and regulations regarding the conduct of its meetings and the carrying out of its duties and responsibilities. The Board shall keep written minutes of its meetings and shall comply with open meeting requirements. A majority of the Board members shall constitute a quorum for the transaction of its business.

26.05 ABSENTEEISM. Any Board member may be removed from the Board by the Mayor, with the concurrence of the Council, for good and sufficient cause which shall be stated in writing and filed with the Clerk and a copy thereof filed with the Chairperson of the Board. Any Board member may be removed from the Board for good and sufficient cause upon recommendation of the Board, with the concurrence of the Mayor and the City Council. In addition, two unexcused absences, or three total absences from regularly scheduled meetings in any one calendar year are grounds for dismissal from the Board. The Mayor shall appoint or recommend to Council a replacement, and with the approval of the Council shall fill such vacancy for the unexpired term.

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CHAPTER 30

POLICE DEPARTMENT

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

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

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

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

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

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

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

30.06 POLICE CHIEF APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. A super majority vote of the Council is needed for the removal of the Police Chief.

(Code of Iowa, Sec. 372.4)

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

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

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

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

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

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

(Code of Iowa, Sec. 321.266)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

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CHAPTER 31

RESERVE POLICE UNIT

31.01 DEFINITION. A reserve police officer is a volunteer, non-regular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as an agency's representative, and participates on a regular basis in the agency's activities including those of crime prevention and control, preservation of the peace, and enforcement of the law. Reserve peace officers are vested with the same rights, privileges, obligations, and duties as any other peace officers while in the actual performance of official duties.

31.02 PURPOSE. The purpose of the ordinance codified in this chapter is to provide for the establishment and operation of a Reserve Police Unit for the City, as set forth in Chapter 80D of the *Code of Iowa*.

31.03 MEMBERSHIP REQUIREMENTS.

1. Membership in the Reserve Police Unit is determined upon standards set by the Police Chief with the approval of the Mayor.

2. Applicants and members of the Reserve Police Unit shall be residents of the City or as established and determined by the Police Chief.

3. Each candidate for the Reserve Police Unit shall make written application and such applicant shall be fingerprinted and investigated as to the applicant's past to satisfy all security measures. An applicant may also be requested to take a polygraph based on the applicant's background and application statements.

4. All applicants shall be appointed to such membership in the Reserve Police Unit by the Police Chief, only after being recommended to such unit by the Reserve Police Captain, and such appointment shall have the approval of the Mayor and Council.

31.04 PHYSICAL EXAMINATION. No person shall be appointed to the Reserve Police Unit until such person has satisfactorily completed a physical examination under the standards approved by the Police Chief.

31.05 ORGANIZATION AND SUPERVISOR.

1. The Police Chief is responsible for the activity of the Unit and shall appoint a regular force peace officer as the reserve force coordinator and supervising officer. The regular peace officer shall report directly to the Police Chief.

2. Reserve peace officers shall be subordinate to regular peace officers, and shall not serve as peace officers unless under the direction of a regular peace officer.

31.06 REMOVAL. The members of the Reserve Police Unit shall serve at the discretion of the Police Chief and they shall be removed and discharged from such positions and their City employment terminated by the Police Chief and such removal may be without cause and/or recommended by the Reserve Police Captain.

31.07 RULES AND REGULATIONS. The Reserve Police Unit may adopt such rules and regulations or bylaws, not inconsistent with the ordinances of the City or laws of the State or the rules and regulations of the Police Department, as the members thereof shall deem advisable. Such rules and regulations or bylaws, if adopted, shall become effective only upon the approval of the Police Chief.

31.08 EMPLOYMENT STATUS. Members of the Reserve Police Unit shall be considered employees of the City during those periods when they are performing police duties as authorized and/or directed by the Police Chief and they shall receive a salary from the City as recommended by the Police Chief.

31.09 BENEFITS. Members of the Reserve Police Unit shall be covered by worker's compensation insurance while performing police duties and shall receive hospital and medical assistance and benefits as provided in Chapter 85 of the *Code of Iowa* to members of the reserve force who sustain injury in the course of performing official duties, but shall not be included under or share any of the benefits or obligations contained in the Police Retirement System.

31.10 INSURANCE. Liability and false arrest insurance shall be provided by the Council to members of the reserve force while performing official duties in the same manner as for regular peace officers.

31.11 TRAINING. Training for individuals appointed as reserve peace officers shall be provided by instructors in a community college or other facility, including a law enforcement agency, selected by the individual and approved by the law enforcement agency and the Iowa Law Enforcement Academy. All standards and training required under Chapter 80D of the *Code of Iowa* constitute the minimum standards for reserve peace officers. There shall be no exemptions from the personal and training standards provided for in this chapter.

31.12 CERTIFICATION. Upon satisfactory completion of training, the Iowa Law Enforcement Academy shall certify the individual as a reserve peace officer.

31.13 UNIFORM AND INSIGNIA.

1. Reserve peace officers shall wear a uniform prescribed by the Police Chief unless the Chief or a superior officer designated alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties, and the handling of mental patients.

2. When such reserve officer is wearing a uniform, a badge issued by the Police Chief shall be worn upon such reserve officer's outer garment in plain view, which uniform and badge shall identify said person's status as a reserve peace officer.

3. The Police Chief shall issue an identification card to each reserve peace officer after such member of the Reserve Police Unit has been certified by the Police Chief. Officers shall carry their identification cards while in the performance of official duties.

4. Reserve peace officers shall not wear an insignia of rank.

31.14 USE OF FIREARMS. Members of the Reserve Police Unit shall carry a firearm on their persons, subject to the following:

1. Said reserve officer has been approved by the Council and certified by the Iowa Law Enforcement Academy Council.

2. Said reserve officer has a valid gun permit obtained for the purpose of reserve peace officer.

3. Said firearm is carried only after qualifying on the range as prescribed by the range master.

4. Said firearm shall be carried while in the actual performance of official duties.

5. Said firearm shall be used only as a defense weapon and in accordance with the *Code of Iowa* and the City's police rules and regulations pertaining to use of force.

31.15 RECORDS. The Police Chief shall keep an accurate record of all members of the Reserve Police Unit, their dates of admission, training, and discharge.

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CHAPTER 35

FIRE DEPARTMENT

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 FIRE CHIEF APPOINTED. The Fire Chief shall be appointed by the City Manager.

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

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

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

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

35.06 APPOINTMENT OF OFFICERS. The Fire Chief shall appoint such other officers as determined to be needed by the department, which officers shall be subject to approval of a majority of the Council members. In the absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 and 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

12. Records. Cause to be kept records of the Fire Department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of

responses to alarms, their cause, and location, and an analysis of losses by value, type, and location of buildings.

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

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

35.09 PROCEDURES AND GUIDELINES. The department may adopt policies and standard operating guidelines as deemed calculated to accomplish the objectives of the Fire Department.

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

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

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

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

35.12 CALLS OUTSIDE 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 and 3])

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

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

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

(Code of Iowa, Sec. 100.41)

35.15 RESCUE SERVICE.

1. Definitions. The phrase "rescue service" as used in this chapter means transportation of a person to a medical facility for medical treatment. "Rescue service" does not include emergency medical services rendered where the person to whom such services are rendered is not transported. "Medical facility" means any hospital, clinic, or other facility which provides medical services to persons. The term "resident" means any person who maintains a permanent residence within the boundaries of Madison Township (including the City). "Nonresident" means all other persons.

2. Fees.

A. Emergency response service fees charged shall be those fees as established by the Fee Schedule adopted by resolution of the Council.

B. Invoices for services shall be sent to the insurance company and/or user receiving the services, transportation, or supplies of the Fire Department.

C. Nothing in this section shall authorize the Fire Department to refuse to provide service to any person, business, or other entity that has not paid for services previously provided or that owes money for services previously rendered.

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36.05 NOTIFICATIONS.

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

2. Any other person who discovers a hazardous condition shall notify the Police Chief, which 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

RAPID ENTRY LOCK BOX SYSTEM

37.01 ESTABLISHMENT AND PURPOSE. It is recognized by the City the importance of providing the Fire Department with rapid entry into locked buildings. The delay in gaining entry can result in substantial property damage, the potential for fire extension, and increased danger for the firefighters.

37.02 DEFINITION. A "lock box" is a high security key vault which is listed under the UL 1610 and the UL 1037 standards, master keyed with a Medeco Biaxial Level 7 or equivalent lock. Locks will be keyed to the key configuration provided by the Fire Department.

37.03 RAPID ENTRY LOCK BOX REQUIRED. The following structures shall be equipped with a key lock box at or near the front entrance or such location as required by the Fire Chief as described in Section 37.04:

1. All newly constructed commercial or industrial structures receiving a certificate of occupancy on or after July 1, 2007.

2. Any newly constructed apartment building or other rental building containing four or more residential living units and in which access to the building or to common areas or mechanical or electrical rooms within the building is denied through locked doors, receiving a certificate of occupancy on or after July 1, 2007.

3. Any building or facility containing a quantity of hazardous materials which require compliance with Title III of SARA (Superfund Amendment Reauthorization Act).

37.04 KEY BOX INSTALLATION REQUIREMENTS. Buildings provided with an alarm system or a sprinkler system shall be provided with a key box at the front of the building, typically adjacent to the main front doors at a height of five feet above grade or at a location as directed by the Fire Code official.

37.05 KEYS REQUIRED. The owner or person in control of the buildings or facilities described in Section 37.03 is required to have a Rapid Entry Lock Box System and shall cause to have in such unit keys to the following areas:

1. The main entrance door.

2. Alarm room.

3. Mechanical rooms and sprinkler control rooms.

4. Fire alarm control panel.

5. Electrical rooms.

6. Special keys to reset pull stations or other protective devices.

7. Elevator keys, if required.

8. All other rooms as determined during plan review or walk through.

37.06 ACCESS TO FIRE DEPARTMENT. The owner or person in control of any building described in Section 37.03 required to have a Rapid Entry Lock Box System or an authorized agent of such person shall be present during access to such Rapid Entry Lock Box by the Fire Department except when the Fire Department has responded to an emergency at the property.

37.07 UPDATE OF KEYS AND INFORMATION. The owner or person in control of any building or facility described in Section 37.03 required to have a Rapid Entry Lock Box shall do the following:

1. Provide keys and updated sets of keys capable of access to the areas described in Section 37.05

2. Notify the Fire Department when a key change is made and coordinate to replace keys located in the Rapid Entry Lock Box.

3. Maintain current information of hazardous materials stored in the building or facility with the Fire Department.

37.08 LIMITATION OF LIABILITY. The City assumes no liability for any of the following:

1. Any defects in the operation of the Rapid Entry Lock Box, of any of the keys contained within said lock box, or any information stored within the lock box.

2. The failure or neglect to respond appropriately upon receipt of an alarm from an alarm system.

3. The failure or neglect of any owner or person in control of a building or facility to provide the correct or updated required material or keys.

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CHAPTER 40

PUBLIC PEACE

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.3)

40.05 LOAFING, LOITERING, AND ANNOYING PERSONS. It is unlawful for any person or persons to:

1. Congregate, stand, loaf, or loiter upon any street, sidewalk, bridge, or crossing so as to obstruct the same, or hinder or prevent persons passing or attempting or desiring to pass thereon.

2. Congregate, stand, loaf, or loiter in or in front of any hall, lobby, doorway, passage, or entrance of any public building, theater, hotel, eating house, lodging house, office building, store, shop, office, or factory or other like building so as to obstruct the same, hinder or prevent persons walking along or into or out of the same, or attempting or desiring to do so.

3. Sit upon or lean upon or against any railing or other barrier about any area, entrance, basement, or window so as to obstruct the light or prevent passage of persons or tenants occupying the building to which such area, entrance, basement, or window belongs.

4. Stand, loaf, loiter, or remain in (or in the immediate vicinity of) or frequent a public transportation terminal, whether publicly or privately owned, unless there present with intent to use, or to accompany or meet a person using, the public transportation there offered or to use any accessory convenience facilities operated at such terminal for the use of travelers.

40.06 LOITERING ON PUBLIC PROPERTY. No persons shall collect, assemble or group together and after being so collected, assembled or grouped together, stand or loiter on any sidewalk, parking or any street corner, or at any other place in the City to the hindrance or obstruction to free passage of any person, persons or vehicles passing on or along any sidewalk or street in the City and each person participating in any such collection, assembly or group shall be guilty of violating this provision.

40.07 LOITERING NEAR GOVERNMENT BUILDINGS. No person shall congregate, stand, loaf or loiter in or in front of or around any school or other public building occupied in whole or in part by any governmental subdivision, including any agency, body, department, office, board, or commission and the like thereof, so as to obstruct, hinder, prevent or disrupt the normal functions carried on therein or thereat, or so as to obstruct, hinder or prevent persons passing by or into or out of the same or attempting or desiring to do so. Provided, however, nothing contained herein is intended, and shall not be interpreted, to prohibit peaceful picketing, public speaking, the ordinary conduct of a legitimate business, or other lawful expressions of opinion not in contravention of other laws.

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 BOWS AND ARROWS. No person shall shoot a bow and arrow, except pursuant to the following subsections, within the City or within a City-owned park, without permission from the Chief of Police. Such permission shall limit the time and place of shooting and may be revoked by the Chief of Police. To "shoot a bow and arrow" means to place a nock of the arrow

in the string of a bow or of any other object and to release the arrow in such fashion that when the string is pulled and released, the arrow thrusts forward.

1. General Regulations. No person shall shoot a bow and arrow within the City or in a City-owned park except as follows:

A. Any person may participate in a supervised program of physical education or competitive sports in a public or private school or in a City park area designated by the City.

B. Any person may shoot a bow and arrow at a public or private lane or range that has been certified by the Archery Lane Operators Association or the National Field Archery Association.

C. Any participant may shoot a bow and arrow in a tournament which either has been approved by the City Manager at least one week prior to the time of the tournament and for which tournament rules have been submitted to the City Manager or is conducted at a licensed lane or range.

D. Any person may shoot a bow and arrow on private or school property provided the requirements of the following subsection are met.

2. Use of Bows and Arrows on Private Property. No person shall shoot a bow and arrow in such fashion that it travels beyond the boundaries of the private or school property on which the person is shooting. Any person shooting a bow and arrow on private or school property shall direct the arrow toward a backdrop composed of a substance which will not allow the arrow to pass through and such backdrop must extend at least five feet beyond the target on the top and both sides and must extend from the bottom of the target to the ground. The target shall be constructed and installed so that the target face cannot move more than two inches in any direction.

3. Use of Bows and Arrows for Hunts. No person shall shoot a bow and arrow within the City limits or in a City-owned park at any living being such as an animal, bird, fish, or fowl, unless it is done in accordance with Chapter 48, Special Bow Hunting of Antlerless Deer.

4. Use of Bows and Arrows by Minors. No person shall furnish to any minor under 15 years of age by gift, sale, or otherwise, any arrows or components thereof unless said minor is participating in a supervised school program or is practicing at an approved public or private archery lane or range or is practicing on the private property of the supervising adult.

41.12 THROWING AND SHOOTING; DISCHARGING WEAPONS. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot, fire, or discharge rifles, shotguns, revolvers, pistols, guns, air guns, BB guns, or firearms of any kind within the City limits except by authorization of the Council, unless it is for the purpose of hunting within property zoned agricultural (A-1). The term "air gun" means any gun, including handguns, capable of propelling a pellet or other projectile from the barrel of such gun by non-explosive means, such as compressed air, CO2, or other gas. The term "BB gun" means any such gun capable of propelling a BB or other projectile from the barrel by means of a spring mechanism or air. The terms "shoot," "fire," and "discharge" mean the act of triggering the mechanism of such air gun or BB gun so that it propels a pellet, BB, or other projectile from the barrel of such gun.

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

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

41.14 FIREWORKS.

1. Definition.

A. "Consumer Fireworks" means those fireworks as defined by Section 727.2 of the *Code of Iowa* that may be sold within the City even though the use of those items is prohibited.

B. "First-Class Consumer Fireworks" means the following Consumer Fireworks, as described in the American Pyrotechnics Association's Standard 87-1, Chapter 3:

(1) Serial shell kits and reloadable tubes.

(2) Chasers.

(3) Helicopter and aerial spinners.

(4) Firecrackers.

(5) Mine and shell devices.

(6) Missile type rockets.

(7) Roman candles.

(8) Skyrockets and bottle rockets.

(9) Multiple tube devices under this paragraph that are manufactured in accordance with APA 87-1, Section 3.5.

C. "Second-Class Consumer Fireworks" means the following Consumer Fireworks, as described in APA 87-1, Chapter 3:

(1) Cone fountains.

(2) Cylindrical fountains.

(3) Flitter sparklers.

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

(5) Ground spinners.

(6) Illuminating torches.

(7) Toy smoke devices that are not classified as novelties pursuant to APA 87-1, Section 3.2.

(8) Wheels.

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

D. "Display Fireworks" means those fireworks as defined by Section 727.2(1)(b) of the *Code of Iowa*.

E. "Novelties" includes all novelties enumerated in Chapter 3 of the American Pyrotechnics Association's Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

(Code of Iowa, Sec. 727.2)

2. Regulations.

A. Except between 9:00 a.m. and 10:00 p.m. on July 3 and except between 9:00 a.m. and 11:00 p.m. on July 4 where persons 18 years and older may use or explode, it shall be unlawful for any person to use or explode any explosive, explosive material, First-Class Consumer Fireworks, or Second-Class Consumer Fireworks within the corporate limits of the City.

B. It shall be unlawful for any person to use or explode any Display Fireworks within the corporate limits of the City unless, upon application in writing, the City has issued a permit to a City agency, fair association, amusement park, or other organization or group of individuals approved by City authorities to display fireworks and such display will be handled by a competent operator.

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

4. Owner/Occupancy Responsibility.

A. No person or responsible party shall allow, permit, or otherwise consent to the display of consumer or display fireworks on the private property or an adjacent public way if such possession or display is in violation of this chapter.

B. A person or responsible party with control of the private property shall be presumed to have consented to the display of fireworks on the property or adjacent way if law enforcement or fire officials observe and document the existence of the remnants of unlawful fireworks on the premises indicative of the use or display of such fireworks.

C. For purposes of this section, "responsible party" includes, but is not limited to:

(1) The persons who own, rent, lease, or otherwise have possession of the residence or other private property; and

(2) The persons in immediate control of the residence or other private property; and

(3) The persons who organize, supervise, sponsor, conduct, allow control of, or control access to the illegal discharge or illegal storage of fireworks.

A. If the residence or other private property is rented or leased, the landlord or lessor is not covered by this section unless they fall within the category of persons described under Subsection C of this definition. A landlord or lessor can only be held responsible under Subsection C of this definition if said landlord or lessor has knowledge that fireworks are being unlawfully discharged or stored on the property.

D. Any person or responsible party who violates the restrictions in Subsections A or B above will be guilty of a municipal infraction and subject to a civil penalty of $250.00 for each offense.

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.

(Code of Iowa, Sec. 727.12)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

F. "Trespass" means one or more of the following acts:

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

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

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

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

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

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

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

3. Specific Exceptions. "Trespass" does not mean either of the following:
(Code of Iowa, Sec. 716.7[2b])

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

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

42.02 CRIMINAL MISCHIEF. It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter, or destroy property.
(Code of Iowa, Sec. 716.1)

42.03 DEFACING PROCLAMATIONS OR NOTICES. It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement, or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.
(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
   - A. Section 21.10 – Injury to Books or Property
   - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
   - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
   - A. Section 135.01 – Removal of Warning Devices
   - B. Section 135.02 – Obstructing or Defacing
   - C. Section 135.03 – Placing Debris On
   - D. Section 135.04 – Playing In
   - E. Section 135.05 – Traveling on Barricaded Street or Alley
   - F. Section 135.08 – Burning Prohibited
   - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
   - A. Section 136.11 – Interference with Sidewalk Improvements
   - B. Section 136.14 – Fires or Fuel on Sidewalks
   - C. Section 136.15 – Defacing
   - D. Section 136.16 – Debris on Sidewalks
   - E. Section 136.17 – Merchandise Display
   - F. Section 136.18 – Sales Stands

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CHAPTER 43

DRUG PARAPHERNALIA

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

1. "Controlled substance" has the same meaning as contained in the *Uniform Controlled Substance Act*, Chapter 124 of the *Code of Iowa*.

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

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

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

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

D. Testing equipment used, intended for use, or designed for use in identifying, in analyzing the strength, effectiveness, or purity of controlled substances except for such equipment of a peace officer or any person acting as an agent of or under the direction of any police agency.

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

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

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

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

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

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

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

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

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

(2) Water pipes, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, bongs, ice pipes, or chillers.

(3) Carburetion tubes and devices.

(4) Smoking and carburetion masks.

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

(6) Miniature cocaine spoons and cocaine vials.

3. "Persons" means any individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

43.02 DETERMINATION AS PARAPHERNALIA - 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 by an owner or by anyone in control of the object concerning its use.

2. 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. 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. The proximity of the object to controlled substances.

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

6. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the *Uniform Controlled Substances Act*, Chapter 124 of the *Code of Iowa*. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the *Uniform Controlled Substances Act*, Chapter 124 of the *Code of Iowa*, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

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

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

9. The manner in which the object is displayed for sale.

10. 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.

11. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise.

12. The existence and scope of legitimate uses for the object in the community.

13. Expert testimony concerning its use.

43.03 DRUG PARAPHERNALIA PROHIBITED. No person shall use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, 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*.

43.04 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA. No person shall deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know, that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, 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 44

SPECIFIED CRIME PROPERTY

44.01 DEFINITIONS. The following words, terms, and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Bootlegging" means the illegal sale or service of alcoholic liquor, wine, or beer in violation of this chapter or Chapter 123 of the *Code of Iowa*.

2. "Controlled substance" means a drug, substance or immediate precursor as defined by Chapters 204A and 204B of the *Code of Iowa*.

3. "Gambling" means games of skill or chance as defined by Chapter 99B of the *Code of Iowa* and prohibited by Chapter 725 of the *Code of Iowa*.

4. "Owner" means any person, agent, firm, corporation, association, or a partnership, including a mortgagee in possession, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and the right to present use and enjoyment of the premises.

5. "Person" means any natural person, association, partnership, corporation, or other legal entity capable of owning or using property.

6. "Police Chief" means the person who has the responsibility to supervise and direct the Police Department, and, for the purposes of this chapter, may include the Police Chief's designee.

7. "Prostitution," "pimping " or "pandering" means those acts or activities as defined by this chapter or Chapter 725 of the *Code of Iowa*.

8. "Specified crime property" means any structure, including the real property upon which it is situated, in which activity involving the unauthorized delivery, possession, or manufacture of a controlled substance, illegal gambling, bootlegging, prostitution, pimping, or pandering is occurring.

9. "Structure" means any building, building complex, or structure, including but not limited to edifice, units, or any portion thereof, and the real property upon which such building, building complex, or structure is situated.

44.02 SPECIFIED CRIME PROPERTY. No person shall use or allow to be used any structure as specified crime property. When the structure and the property upon which it is situated are owned by different persons, each person shall not use or allow to be used such structure and property as specified crime property.

44.03 PENALTIES. Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a municipal infraction punishable by the civil penalty as provided by Chapter 3 of this Code of Ordinances.

44.04 PROCEDURE FOR ENFORCEMENT.

1. When the Police Chief has a reasonable belief that a structure is being used or maintained in violation of this chapter, the Police Chief shall notify the owner of record in writing that the structure has been declared to be a Specified Crime Property.

2. A reasonable belief that a structure is being used as a Specified Crime Property may be found from (but is not limited to) evidence of drug paraphernalia in or around the structure; an increase in vehicular or pedestrian traffic in or around the structure; observations of the exchange of money; verified citizen complaints of bootlegging; unauthorized delivery or manufacture of a controlled substance; illegal gambling, bootlegging, prostitution, pimping, or pandering; and any other activity which leads a police officer to reasonably believe violations exist.

44.05 NOTICE. The notice required in Section 44.04(1) of this chapter shall notify the owner of record in writing that a structure owned by said owner has been declared to be a Specified Crime Property, and such notice shall contain the following information:

1. The street address and a description sufficient for identification of the premises on which the structure is located; and

2. A statement that the Police Chief has found the structure to be in violation of this chapter, with an explanation as to why the structure has been declared a Specified Crime Property.

44.06 SERVICE OF NOTICE.

1. A copy of the notice given pursuant to this chapter shall be served on the owner or an agent at least 20 days prior to the commencement of any judicial action by the City. Service shall be made either personally or by mailing a copy of the notice by registered or certified mail, postage paid, return receipt requested, to each person at each person's address as it appears in the records of the County Auditor. In the event that notice is impossible to be served as set out above, a copy of the notice may be posted at the property, if 10 days have elapsed from the service or mailing of the notice to the owner and no response or reply has been received by the City from the owner during that period of time.

2. The failure of any owner to receive actual notice of the determination of the Police Chief shall not preclude future proceedings under this chapter.

44.07 ADMINISTRATIVE APPEAL.

1. Upon receipt of a notice of Specified Crime Property, as set out in Section 44.06, the owner of record may challenge such notice by filing a request for an administrative hearing. Such request for hearing shall be in writing and filed with the Clerk within 10 days of service of the notice of Specified Crime Property. A copy of this chapter is available, upon request, from City Hall for a copy fee.

2. Failure to request a hearing within such time period or to attend a scheduled hearing shall be deemed a waiver of the right to such a hearing.

44.08 CONDUCT OF HEARING.

1. The hearing held pursuant to this chapter shall be conducted before the Council within a reasonable period of time, but not to exceed 15 business days, excluding Saturdays, Sundays, and City holidays, from the date of a written demand therefor. Such hearing may be continued for good cause. A notice of hearing, including the time, date, and location of the hearing, shall be made by mailing a copy of the notice by First-Class mail, postage prepaid, to the owner of record.

2. The sole issue before the Council shall be whether there exists a reasonable belief that the structure was being used as Specified Crime Property when the declaration of Specified Crime Property was made pursuant to Section 44.01(8). The Council shall decide only that either (i) there is a reasonable belief that the structure was used as Specified Crime Property and that the provisions of this chapter shall apply, or (ii) there is not sufficient reasonable belief that the structure was being used as Specified Crime Property and that the procedures of this chapter shall be permanently stayed. A finding of no reasonable belief, however, shall not preclude a future independent complaint, investigation, and notice of Specified Crime Property.

3. The decision of the Council shall be issued within four days of the hearing and the owner of record shall be notified consistent with the notice provisions of this chapter.

4. The decision of the Council shall be final.

44.09 EFFECT OF NOTICE.

1. Subsequent to the declaration and notice that there exists a Specified Crime Property, an owner shall have the opportunity to abate the illegal activity within 10 days. If a landlord/tenant relationship, the owner/landlord may be deemed to have abated the activity upon demonstration that said owner/landlord has taken legal action as allowed by Chapter 562A of the *Code of Iowa*, to terminate the rental agreement and continue in good faith to follow abatement procedures and provide the Police Chief with copies of all notices served in accordance with Chapter 562A of the *Code of Iowa*.

2. If, after 20 days, the Police Chief determines that a Specified Crime Property has not been abated, a notice of fine and an order of abatement shall be filed in compliance with Chapter 364.22 of the *Code of Iowa* and Chapter 3 of this Code of Ordinances.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(50) and (51) of this Code of Ordinances.]*

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

(Code of Iowa, Sec. 123.47)

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CHAPTER 46

MINORS

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

1. Definition. For purposes of this section a "minor" means any person below the age of 18 years.

2. Time Limits. It is unlawful for any minor to be, remain, or loiter upon the alleys, streets, or other public places of the City between the hours of 11:00 p.m. and 6:00 a.m. of the following day.

3. Exceptions. The restriction provided by Subsection 2 of this section shall not apply to any minor who is accompanied by a parent or guardian or other person having custody of such minor, or to any minor in the performance of duty directed by such parent, guardian, or other person having custody, or if such minor has lawful employment making it necessary to be in such places after 11:00 p.m. Nor shall the restriction apply when a minor is on an emergency mission or to any minor who is traveling between his or her home or place of residence and the place where any approved church, municipal, or school function is being held.

4. Responsibility of Adults. It is unlawful for any parent, guardian, or other person charged with the care and custody of any minor to allow or permit such minor to be, remain, or loiter upon any of the alleys, streets, or other public places within the curfew hours set by Subsection 2 of this section, except as provided in Subsection 3 of this section.

5. Penalties.

   A. Any person who violates the provisions of Subsection 4 of this section is guilty of a simple misdemeanor.

   B. Any peace officer of the City while on duty is hereby authorized to arrest and detain any minor who willfully violates the provisions of Subsection 2 of this section. The arresting officer shall immediately communicate with the parents, guardian, or other person charged with the care and custody of the minor.

   C. Any minor who violates the provisions of Subsection 2 of this section is guilty of a simple misdemeanor.

   D. All violations of any provisions of Section 46.01 are hereby declared simple misdemeanors punishable by a fine of $50.00 plus surcharge and court costs. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction, at the sole discretion of the peace officer.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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CHAPTER 47

PARK REGULATIONS

47.01 PURPOSE. The rules and regulations in this chapter are established concerning the conduct and use of parks, and regulating traffic and parking of automobiles and other vehicles in any such park. "City or public park" means and includes the Sports Complex and any other area which is under the control of, or contract with, the City and intended for recreational purposes.

47.02 USE OF ROADWAYS. No person shall ride or drive any automobile or other vehicle in any City or public park except upon the established roads and ways. No automobiles or other vehicles shall be permitted to stand in any of the public driveways in any such park where signs to the contrary are posted, nor shall any automobile or other vehicle be driven contrary to one-way signs. No City or public park road shall be used as a through street by any vehicle where posted.

47.03 SPEED. No person shall ride or drive any automobile or other vehicle in a City or public park at a speed in excess of 25 miles per hour or 15 miles per hour through play areas where so posted.

47.04 PARKING. No automobile or other vehicle shall be allowed to park in any City or public park except in places where designated, and no person shall park any automobile or other vehicle at night except where the same is lighted as required by law for other City streets. No such vehicle shall be parked or allowed to remain within or upon any such park area or facility for a period in excess of 24 hours.

47.05 OTHER TRANSPORTATION. No horses, motorcycles, snowmobiles, or other motorized vehicles are allowed off the roadway unless in specified areas.

47.06 HITCHING ANIMALS. No person shall hitch or ride a horse or other animal in any City or public park except in places where trails are posted and rails are provided.

47.07 PUBLIC PROPERTY. No person shall in any manner deface, injure, or remove any tree, shrub, or plant standing or growing in a City or public park, or pick or destroy flowers or seeds growing therein. No person shall cut or remove any wood, turf, grass, soil, rock, sand, or gravel from any City or public park. No metal detectors shall be allowed in any City or public park.

47.08 FIRES. No fires shall be lighted or made in any City or public park; provided, however, this section does not apply to fires in stoves and ovens provided in the park for the use in picnic cooking.

47.09 LITTER. No person shall deposit upon or litter the ground with any form of waste material. All such waste material shall be deposited in receptacles provided for such purpose.

47.10 LANGUAGE. No person shall use any loud, violent, obscene, or profane language while in any City or public park, nor shall any person behave in a disorderly or obscene manner or commit any nuisance therein.

47.11 DOGS AT LARGE. No dog shall be permitted to run at large in any City or public park.

47.12 HOURS. No person shall be in any City or public park between the hours of 10:00 p.m. and 7:00 a.m. or at any time duly designated and posted.

47.13 COMPLIANCE WITH RULES. All persons shall abide by rules as posted in park areas and facilities.

47.14 MOVING FIXTURES. No person shall move benches, seats, or tables from their places in any City or public park except on picnic grounds and within designated areas.

47.15 ALCOHOLIC BEVERAGES, WINE, AND BEER. No person shall possess, use, or consume alcoholic liquor, wine, or beer in a City or public park and no person shall be intoxicated in a City or public park.

47.16 SPORTS COMPLEX. The following rules and regulations are established governing the use of the Sports Complex:

1. Permission Required. No person shall use the Sports Complex for any tournament or special activity unless such activity is first approved by the City Council. Any group or organization wishing approval for the use of the Sports Complex shall request such permission from the Parks and Recreation Director who shall thereupon forward such request to the Council. If such request is granted, the applicant shall immediately deposit with the City the appropriate rental fee and the additional sum of $100.00 as a maintenance deposit. The maintenance deposit shall be returned to the applicant only after the City has verified that no damage has resulted from the use of said Sports Complex by said group or organization. If the applicant wishes the use of lights, an additional charge of $15.00 per hour shall be imposed with a minimum charge of $15.00 payable at the time of the issuance of the permit, as is hereinafter provided. Notification of cancellation of any tournaments, special activity, or organizational functions must be made a minimum of five days prior to the scheduled event, or the rental fee will not be refunded.

2. Rental Fees. Rental fees for the use of the Sports Complex, if applicable, shall be charged in accordance with the following schedule:

A.	Little League baseball field	$100.00 per hour
B.	Girls' softball field	$100.00 per hour
C.	Adult softball field	$100.00 per hour

D.	Unlighted soccer field	$100.00 per hour
E.	Lighted soccer field	$150.00 per hour

A rental fee shall not be charged for the use of the Sports Complex when 50 percent or more of the participants in the tournament or special activity are residents of the City.

4. Permit Issuance. Upon payment of the rental fee and deposit, the City shall issue a permit to the applicant. Any nonresident group or organization claiming to have permission to use the Sports Complex shall have such permit in their collective possession at all times while within the Sports Complex and shall produce the same upon demand to any police officer of the City.

5. Observation of Rules; Responsibility. Any group or organization using the Sports Complex shall be responsible for any damage done by any member of such group. Any group or organization using said Sports Complex shall observe all other ordinances and regulations governing the use of parks within the City.

6. Use of Rental Fees. All funds derived from the collection of the aforementioned users' fees shall become part of the Parks and Recreation Fund and be used for the maintenance and improvement of the parks system within the City.

7. Weather Clause. The City shall determine if fields are not usable due to weather related conditions. In this event, the activity can be rescheduled. No refunds will be given to weather related causes.

8. Concession Rights. Only Polk City nonprofit organizations will have concession rights in the complex.

47.17 APPLICATION REQUIRED. Any person seeking permission to use the public parks for any regularly scheduled athletic activity or other type of activity shall first submit its application to the City. Such application shall state the name, address, and phone number of the person in charge of such organization; the names of all members of the Board of Directors or other governing body of such organization; and further, that said organization and its members agree to indemnify the City for any damages caused by the activities of said organization.

47.18 MISCELLANEOUS ORGANIZATIONS. Public meetings, religious, political, or otherwise, including picnic parties and entertainment for charitable or religious purposes, may be held in any public park after first obtaining permission from the City and only after such group furnishes the information required under Section 47.17. Such assemblages shall be conducted in a lawful and orderly manner and shall occupy such grounds as may be reserved for them.

47.19 REGULARLY SCHEDULED ACTIVITIES. Any person in any activity at such time and place which serves to conflict with any scheduled activity may be requested to leave, and, upon failing to do so, shall be guilty of a misdemeanor.

47.20 TOBACCO-FREE POLICY.

1. Tobacco Use Prohibited. Tobacco and nicotine use is prohibited in all City outdoor recreational facilities at all times. No person shall use any form of tobacco at or on any City-owned or operated outdoor recreational facility which includes, but is not limited to, any park, playground, athletic field and complex, skate park, aquatic areas, shelter, restrooms, trails, and parking lot areas. The term "tobacco" means any product made or derived from tobacco, such as nicotine, that is intended for human

consumption, including any component, part, or accessory of a tobacco product. This includes, among other products, cigarettes, electronic smoking devices, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, and dissolvable tobacco. The term "electronic smoking device" means any device that can be used to deliver an aerosolized solution that may or may not contain nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, e-hookah, or other simulated smoking device. Tobacco product does not include nicotine products approved by the U.S. Food and Drug Administration (FDA) for tobacco cessation. Tobacco-Free signs shall be posted in all outdoor recreational facilities that conform to the requirement of Section 142D.6 of the *Code of Iowa*.

2. Enforcement. Any person found violating this section shall be asked to cease use of tobacco or leave the City Park or facility premises. Any person found to continually violate this section may be cited with a municipal infraction. Violations of this chapter are declared to be municipal infractions and may be punished as provided in Chapter 3 of this Code of Ordinances. For violations of this section, police officers or designees shall enforce and be authorized to issue citation-complaints. Before issuing a citation-complaint, the police officer or designee shall verify that the offender has previously received a warning against engaging in such conduct, or the offender has refused to discontinue engaging in such conduct after the police officer or designee has advised the offender that such conduct must cease. A $100.00 civil penalty shall be imposed for each violation where a citation-complaint has been issued.

47.21 VIOLATIONS. All violations of any provisions of this chapter, with the exception of Section 47.21, are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs, and/or municipal infractions, punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction, at the sole discretion of the peace officer.

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CHAPTER 48

SPECIAL BOW HUNTING OF ANTLERLESS DEER

48.01 DEFINITIONS. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. "Antlerless" means a deer with no visible forked antler.

2. "Arrow" means the same as defined and limited by the State Department of Natural Resources (herein IDNR).

3. "Bow" means the same as defined and limited by the IDNR.

4. "Elevated stand" means a manufactured stand (tree stand, ladder stand, tripod, quadpod, or tower) with a safety harness and of sufficient height to place the hunter's feet at least six vertical feet above the highest ground elevation within 25 yards of the stand location to ensure a downward thrust of an arrow when released by the bow.

5. "License" means either of the following:

   A. Incentive License. A document issued by the IDNR to allow a bow hunter to harvest an antlered deer as a designated buck incentive program award recipient based on the previous year's antlerless deer program in the City.

   B. Urban Antlerless Deer License. A document issued by the IDNR in addition to the small game hunting license to allow a bow hunter to harvest an antlerless deer under the City's special bow hunting program.

6. "Offal" means entrails, which includes most internal organs other than muscle or bones.

7. "Permission form" means a document issued by and filed with the City to affirm that the hunter has received written authorization to hunt on private property from the owner or manager thereof.

8. "Usable portion" means any part of a deer that is customarily processed for human consumption.

9. "Viscera" means the internal organs within the chest.

48.02 URBAN DEER MANAGEMENT AREA. The IDNR has determined that areas exist within the City limits where deer are overly abundant, and a reduction in population is warranted for proper management of resources, and these areas have been designated by the IDNR to be recommended urban deer management areas.

48.03 SPECIAL BOW HUNT. A special bow hunt is hereby established and shall be administered by the City in accordance with the provisions of this chapter. The dates and

boundaries for the special bow hunt shall be set annually by City Council resolution and may be more restrictive than the dates and boundaries designated by the IDNR.

1. Hunters wishing to participate in the special bow hunt shall first obtain an urban antlerless deer license or incentive license after completing the following and providing proof thereof:

A. An annual archery proficiency test; and

B. A bow hunter safely education course conducted by the IDNR or approved equivalent.

2. The City hereby reserves the right to approve the content and operation of the test or safety course, and to reject any that is not compliant with IDNR requirements or recommendations or otherwise deemed unacceptable to the Police Department.

3. Hunting shall be prohibited within the following protection zones, and no shot shall be directed into or across any protection zone:

A. Within 200 feet of any home or building not owned by the hunter, unless the owner thereof waives the prohibition in a written statement filed with the City; and

B. Within 100 feet of a recreation trail or street.

4. Shots shall only be taken from an elevated stand; provided that a hunter with an IDNR-qualifying disability may request permission to use an alternative; shall be restricted to a distance of not more than 75 feet; and shall clearly have a downward angle intended to minimize travel of an arrow beyond the 75 feet maximum shot distance. A diligent attempt shall be made to retrieve every arrow.

5. Legal weaponry for all hunting allowed by this chapter shall be restricted to bows and arrows, except that a hunter with a qualifying disability as defined by IDNR regulations may be allowed to use a crossbow and bolts as defined and limited by the IDNR.

6. Bows and arrows shall be cased while traveling to and from every hunting site.

48.04 BOW HUNTING.

1. No person shall pursue, stalk, hunt, lie in wait for, shoot at or kill any deer with a bow and arrow, except as permitted by this chapter.

2. Hunters shall comply with all requirements established by the IDNR and by this Code of Ordinances, including, but not limited to, this chapter.

3. Hunters shall complete and file a permission form prior to hunting.

4. Hunting shall be prohibited on all City-owned property unless expressly approved by the City Council after review and recommendation by the governing City Board or Commission.

5. The minimum age for participation in the special bow hunt shall be 18 years old on the day of the hunt.

6. Each hunter shall carry all of the following on said hunter’s person at all times while hunting:

A. An IDNR license for the special bow hunt to hunt within the boundaries designated by the City;

B. A permission form for the current year; and

C. A map verifying that the property being hunted is located within the hunt area that has been designated by the City Council.

7. A hunter shall not leave a usable portion of the deer in the field. In the case of private property, viscera and other offal shall be disposed of in a manner that is acceptable to the property owner and in a location that is not visible from adjoining public or private property.

8. A hunter shall not dispose any animal part on any public property, including roadside ditches.

9. If a mortally wounded deer travels off the property being hunted onto other property, the hunter shall attempt to notify the other property owner, or in the case of City property, the City Police Department, before entering the other property to recover the mortally wounded deer.

10. Hunters are strongly encouraged to utilize a safety harness conforming to current Treestand Manufacturers Association (TMA) or American Society for Testing and Materials (ASTM) standards, in the manner and method proscribed by the manufacturer, at all times while occupying an elevated stand.

48.05 HUNTING ON RURAL PROPERTY.

1. Bow hunting may be allowed on any property located within predominately agricultural areas of the City as designated annually by City Council resolution (hereafter rural property) in accordance with all IDNR regulations and without obtaining an urban antlerless deer license or incentive license, subject to the restrictions listed in this section.

2. A bow hunter is not required to complete the City permission form nor comply with the annual proficiency or safety education course required for the City's special bow hunt program to hunt on rural property unless the bow hunter desires to have any antlerless deer taken on a rural property to be included in the season harvest requirement for a possible incentive license in the following season, if any are awarded; and is not required to case the bow and arrows while traveling to hunting sites located on rural property.

3. A bow hunter may obtain an "any sex license" from the IDNR to hunt on rural property, but the tag shall not be used to take any antlered deer within the boundaries designated by the City for the special bow hunt. This restriction shall not apply to an incentive license awarded for the prior season under the City's special bow hunt program.

48.06 FEEDING DEER PROHIBITED.

1. Feeding Prohibited. Residents are prohibited from overtly and intentionally feeding deer for the following reasons:

A. There is an increased risk of spreading disease among the herd when deer are concentrated in one place through purposeful feeding, by promoting contact between a sick animal and healthy animals;

B. An increased chance of exposing self, family, or pets to ticks that carry Lyme Disease (Borrelia burgdorferi), and to other diseases that may be carried by deer or insects transported by deer; and

C. Reduced fear of humans, leading to increased property damage, car/deer accidents, and other concerns.

2. Prohibition.

A. No person may place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of attracting or feeding deer.

B. Each property owner or occupant of the property shall have the duty to remove any materials placed on the owner's property in violation of this chapter. Failure to remove the materials within 24 hours after notice from the City shall constitute a violation of this chapter.

C. Each property owner or occupant of the property shall have the duty to remove any device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner or occupant may modify the device or make other changes to the property that prevent deer from having access to or feeding from the device. Failure to remove the device or to make modifications within 24 hours after notice from the City shall constitute a violation of this chapter.

3. Rebuttable Presumption. There is a rebuttable presumption that the placement of fruit, grain, mineral, plant, salt, vegetable, or other materials in a drop feeder, deer feeder kit, automatic feeder, or similar device regardless of the height of the fruit, grain, mineral, plant, salt, vegetable, or other material is for the purpose of feeding deer.

4. Exceptions.

A. Naturally Growing Materials. This chapter does not apply to naturally growing materials, including, but not limited to, fruit, grain, nuts, seeds, and vegetables.

B. Planted Materials. This chapter does not apply to planted materials growing in gardens, as standing crops or in a wildlife food plot.

C. Stored Crops. This chapter does not apply to stored crops, provided that the stored crop is not intentionally made available to deer.

D. Incidental Spills. This chapter does not apply to spills of seed materials intended for planting or to crop materials that have been harvested if the spills are incidental to normal agricultural operations and those materials are not intentionally made available to deer.

48.07 PENALTY. Failure to comply with City or State regulations may subject a hunter or landowner to revocation of permission to participate in the special bow hunt, and to be subject to other penalties prescribed by the *Code of Iowa* and by this Code of Ordinances, including, but not limited to, fines and penalties as set forth in Chapter 3. Any resident that violates Section 48.06 shall be guilty of a municipal infraction and subject to fines and penalties as set forth in Chapter 3.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

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

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

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

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

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

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

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

9. Weeds, Brush. Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.

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

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

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

13. Emerald Ash Borer (EAB). Ash trees infested by emerald ash borer. The Public Works Director shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

14. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the City shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of disease or the insect or disease pests.

15. If it is determined with reasonable certainly that any such condition exists on private property and that the danger of other trees within the City is imminent, the City shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 60 days of said notification. If such owner, occupant or person in charge of said property fails to comply within 60 days of receipt of notice, the City may cause the nuisance to be removed and the cost assessed against the property.

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

1. Deer **(See Chapter 48)**
2. Junk and Junk Vehicles **(See Chapter 51)**
3. Noise **(See Chapter 52)**
4. Dangerous and Vicious Animals **(See Chapter 57)**
5. Storage and Disposal of Solid Waste **(See Chapter 105)**
6. Dangerous Buildings **(See Chapter 145)**
7. Trees **(See Chapter 151)**
8. Weeds **(See Chapter 152)**
9. Construction and Repair of Buildings **(See Chapter 155)**

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever 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.

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

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

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

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

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

† **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.

property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.

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

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

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

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

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds $500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

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

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

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

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

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

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

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

E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.

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

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

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

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

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

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

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

1. A fully enclosed fence or wall in the rear yard of a parcel within an industrial zoning district constructed of wood or opaque materials meeting applicable City ordinances of at least eight feet in height, constructed so as to prevent unauthorized entrance and access to the junk or junk vehicle;

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

3. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City having an approved Site Plan designated for such use.

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

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

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CHAPTER 52

NOISE CONTROL

52.01 CENTRAL POLICY. It is the declared policy of the City to promote an environment free from excessive noise, otherwise properly called "noise pollution," which unnecessarily jeopardizes the health and welfare and degrades the quality of the lives and devalues the property of the residents of the City, without unduly prohibiting, limiting, or otherwise regulating the function of certain noise-producing equipment which is not amenable to the economy of, and quality of life in, the City.

52.02 PURPOSE AND SCOPE. The purpose of this chapter is to establish standards for the control of noise pollution in the City and thereby to protect the public health, safety, and general welfare. This chapter shall apply to the control of all noise originating within the limits of the City, except where either:

1. A State or federal agency has adopted a different standard or rule than that prescribed within this chapter and has so preempted the regulation of noise from a particular source as to render this chapter inapplicable thereto.

2. The Council has determined that, by reason of public acceptance of the activity producing a particular noise, such noise is deemed acceptable to the residents of the City.

52.03 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI).

1. "Emergency" means any occurrence or set of circumstances involving actual or intimate physical or psychological trauma or property damage which demands immediate action.

2. "Emergency work" means any work performed for the purpose of alleviating or resolving an emergency.

3. "Motorcycle" means any two-wheeled or three-wheeled motor vehicle.

4. "Motor vehicle" means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. The term "motor vehicle" includes most motorcycles, as defined in this section.

5. "Noise" means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

6. "Noise disturbance" means those sounds defined as "noise disturbances" in Section 52.05 of this chapter.

7. "Powered model vehicles" means any self-propelled airborne, waterborne, or land-borne model plane, vessel, or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

8. "Public right-of-way" means the traveled portion of any street, avenue, boulevard, highway, alley, or similar place which is owned or controlled by the City or another governmental entity.

9. "Real property boundary" means an imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

10. "Recreational vehicle" means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or used off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways shall be deemed a "motor vehicle" (and a "motorcycle" if two-wheeled or three-wheeled) and not a "recreational vehicle." Examples of a recreational vehicle include, but are not limited to, snowmobiles, minibikes, stock cars, or motorboats.

11. "Residential property" means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

12. "Sound" means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

13. "Sound equipment" means any radio, record player, tape deck or player, loudspeaker, amplifier, sound track, or other device for producing, reproducing, or amplifying sound, except, however, "sound equipment" does not include:

A. Sirens and other equipment used to alert persons to the existence of an emergency.

B. Equipment used by law enforcement and other public safety officials in the performance of their duties.

C. Church carillons, bells, or chimes.

D. Mobile radio or telephone signaling devices.

E. Automobile and truck radios, tape decks or players, or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than 50 feet from such automobile or truck.

52.04 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make or continue, or cause or allow to be made or continued, any noise disturbance within the City. All violations of any provision of Section 52.04 are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction, at the sole discretion of the peace officer.

52.05 INCLUDED SOUNDS. Except for sounds excluded in Section 52.06, the term "noise disturbance," as used in this chapter, means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety, or health of a human being, or disturbs a reasonable human being of normal sensitivities, or causes or tends to cause adverse physiological or physical effects on human beings or devalues or injures property.

2. Selling by "Hawking" or "Barking." The sound of selling by shout or outcry when made within the area of the City zoned residential or commercial.

3. Loading and Unloading. The sound made by the out-of-doors loading, unloading, opening, closing, or handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 10:00 p.m. and 7:00 a.m. of the following morning within any area of the City zoned residential.

4. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing of a motor vehicle or recreational vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property.

5. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property.

6. Musical Instruments. The sound made by a drum, horn, reed instrument, string instrument, or other musical instrument or device which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property.

7. Off-Road Motorcycle and Recreational Vehicle Noise. The sound made on private property or on City-owned property (other than public right-of-way) by a motorcycle or recreational vehicle and received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property; provided, however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a "noise disturbance" unless made so by some provision of this section other than this subsection.

8. Construction Noise. The sound made by tools or equipment in erection, demolition, excavation, drilling, or other such construction work which is received between the hours of 10:00 p.m. and 7:00 a.m. of the following morning at the real property boundary of residential property, except street concrete and paving saw cutting.

9. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, if plainly audible from any public right-of-way within the City between the hours of 10:00 p.m. and 7:00 a.m. of the following morning.

10. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle in areas of the City zoned residential or commercial.

11. Noisy Exhaust System. The sound made by a motor vehicle or recreational vehicle whose exhaust system has been modified by the installation of a muffler cutout or bypass.

12. Animal or Bird Noises. The frequent or habitual sound made by a domesticated animal or bird, other than livestock owned or possessed for agricultural purposes.

52.06 EXCLUDED SOUNDS. Any other provision of this chapter to the contrary notwithstanding, the term "noise disturbance," as used in this chapter, does not mean or include the following sounds:

1. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped lawn and garden equipment operated between the hours of 7:00 a.m. and 10:00 p.m.

2. Chain Saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of 7:00 a.m. and 10:00 p.m.

3. Snow Removal Equipment. The sound emitted by motor-powered, muffler-equipped snow removal equipment operated between the hours of 6:00 a.m. and 10:00 p.m. and the sound emitted by City-owned or hired snow removal equipment at any time, as necessary.

4. Emergencies. The sound emitted in the performance of emergency work, or to alert persons to the existence of an emergency.

5. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device for emergency purposes, or for the essential testing of such device when conducted between the hours of 9:00 a.m. and 4:00 p.m.

6. Church Bells. The sound emitted by church carillons, bells, or chimes.

7. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or player, or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants while such vehicle is on the public right-of-way, provided that the sound emitted therein is not audible for more than 50 feet.

8. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.

9. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.

10. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.

11. Construction Noise. The sound emitted by construction work (erection, demolition, excavation, drilling, etc.) between the hours of 7:00 a.m. and 10:00 p.m. which is being performed pursuant to a proper and current building permit.

12. Mosquito Spraying Equipment. The sound made by City-owned or hired mosquito spraying equipment.

52.07 CONSTRUCTION. No provisions of this chapter should be construed to legalize or permit sounds, devices, or activities made unlawful by other ordinances of the City or State or federal statutes.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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

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

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

2. "Animal" means a nonhuman vertebrate.

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

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

(Code of Iowa, Sec. 162.2)

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

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

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

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

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

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

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

(Code of Iowa, Sec. 717.B1)

7. "Community cat caregiver" is a person who, in accordance with and pursuant to a policy of TNR, as defined herein, provides care including food, shelter, and or

medical rehab to a community cat, while not being considered the owner, harborer, controller or other possessor of a community cat. ***(Ord. 2023-3000 – Nov. 23 Supp.)***

8. "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.

9. "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)

10. "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)

11. "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)

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

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

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

14. "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)

15. "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)

16. "Trap-neuter-replace" (TNR) is the process of humanely trapping, sterilizing, vaccinating for rabies, ear tipping and returning a cat to their original location.

(Subsection 16 – Ord. 2023-3000 – Nov. 23 Supp.)

17. "Veterinarian" means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.

(Code of Iowa, Sec. 717.B1)

55.02 ANIMAL NEGLECT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

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

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

(Code of Iowa, Sec. 717.2)

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

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.

2. The delivery of a cat or dog to an animal shelter or that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the *Code of Iowa*.

3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

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

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

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

55.08 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles, or other vehicles. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this

Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.12 NUMBER OF ANIMALS RESTRICTED. Not more than four dogs or cats or combinations thereof over the age of six months shall be kept by any person on any premises in the City except in bona fide kennels or pet shops.

55.13 TRAPPING. No person shall, within the corporate boundaries of the City, set or use a steel, claw, or box trap, or any other device or mechanism outside of any structure or building for the purpose of taking, killing, maiming, wounding, ensnaring, trapping, or capturing an animal, or which is, or could be, injurious to persons or animals, unless such person has applied for and obtained from the Police Chief a permit to do so. The Police Chief shall make available a form for applying for such a permit and shall issue such permits only when, in the discretion of the Police Chief, the issuance of such permit will not interfere with or endanger the health, safety, or welfare of persons or property. The Chief shall place such conditions or restrictions on any permit as are necessary, in the exercise of such discretion, and to prevent the unreasonable risk or danger to persons or property. This section shall not be construed to prohibit trapping by a governmental unit to capture animals which are creating a public nuisance or for the protection of persons or property.

55.14 CATS DISTURBING THE PEACE. No owner shall permit a cat to cause annoyance or disturbance to any person or persons in any manner including frequent and habitual hissing, meowing, or fighting; defecation on property other than that of the owner; and the defacing or scratching or marring of any personal property other than that of the owner of said animal.

55.15 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded at the discretion of the peace officer, All violations of any

provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

55.16 DISPOSITION OF ANIMALS.

1. Notification to Owner. Following seizure of any properly licensed cat or dog with identification tags attached, the owner shall be notified of such seizure by telephone or by letter mailed to the owner's address as disclosed on the tags. Such notice, if by mail, shall advise the owner to immediately contact the Clerk's office or the Police Department for information on how the cat or dog may be reclaimed.

2. Unclaimed Animals. Any seized cat or dog or other animal not reclaimed within seven days after its seizure, or after notice to the owner of the seizure if the owner is known, shall be destroyed or otherwise disposed of.

55.17 IMPOUNDING COSTS. In addition to any other requirements, the owner of a seized cat or dog shall be charged a fee, and may reclaim such cat or dog only upon payment of such fee, in the following amount:

1. If the cat or dog does not have a current license: $45.00 penalty
2. Administration fee for the seizure: $50.00
3. Seizure:
   - A. $50.00 if it is the first seizure during the calendar year;
   - B. $75.00 if it is the second seizure during the calendar year;
   - C. $100.00 if it is the third seizure during the calendar year; or
   - D. $125.00 for each subsequent seizure during the calendar year.

55.18 SANITATION. It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way, or the property of another person. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

55.19 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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

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

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

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

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

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

(Code of Iowa, Sec. 351.45)

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:

A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.

B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.

2. This section shall not apply to an act taken by any of the following:

A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

B. A peace officer.

C. A veterinarian.

D. An animal shelter or pound.

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

(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:

A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.

B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.

2. This section shall not apply to an act taken by any of the following:

A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.

B. A peace officer.

C. A veterinarian.

D. An animal shelter or pound.

55.22 BEES AND BEEKEEPING. It is unlawful for a person to keep bees within the City except in an Agricultural (A-1) Zoning District in compliance with Section 165.08(2) of this Code of Ordinances.

55.23 COMMUNITY CATS. The community cats initiative is to protect the residents of the City against the hazards brought about by the growing feral cat population and to provide a safe and humane process by which those health and safety hazards can be reduced through the use of trap-neuter-replace (TNR) program to reduce and effectively manage the feral cat population within the City limits.

1. A cat meeting the following requirements shall be allowed to roam freely and shall be known as a "community cat" if all of the following conditions of TNR are met by the community cat caregiver with the assistance of the City:

A. The cat has been scanned for microchips and no person owns the cat.

B. The cat has been assessed by a veterinarian and deemed healthy.

C. The cat has been spayed or neutered.

D. The cat has been vaccinated against rabies.

E. The cat has been "ear tipped."

2. Cats caught or trapped within the City limits may be transported by the Polk County Animal Control to either the ARL or a veterinary clinic within Polk City during their regular business hours as part of the trap-neuter-replace program.

(Section 55.23 – Ord. 2023-3000 – Nov. 23 Supp.)

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CHAPTER 56

CAT AND DOG LICENSES

56.01 ANNUAL LICENSE REQUIRED. Every owner of a cat or dog six months old or older shall procure a license for such cat or dog from the Clerk's office on or before January 1 each year and shall pay to the Clerk a fee of $10.00 for each animal. Fees paid on or after April 1 each year shall be $25.00 for each license. An additional $1.00 charge shall be assessed for all licenses issued by mail. All violations of any provision(s) of Section 56.01 are hereby declared simple misdemeanors punishable by a fine of at least $50 plus surcharge and court costs and/or municipal infractions punishable as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted at the sole discretion of the peace officer.

56.02 IMMUNIZATION CERTIFICATE. No such license shall be issued until the owner shall procure for examination a certificate of a veterinarian licensed to practice in the State of Iowa that the cat or dog has been vaccinated against rabies and that the vaccination does not expire within six months from the effective date of the license.

56.03 ISSUANCE OF LICENSE. Upon payment of the license fee and production of the certificate, the Clerk's office shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the cat or dog. Said license shall be executed in duplicate, one copy of which shall be retained by the Clerk's office as a public record.

56.04 TAGS. The Clerk shall also issue and deliver to said owner a metal tag stamped with the number of the license and the year for which it is issued. The tag shall be worn at all times by the cat or dog for which the license is issued. Every cat or dog found off the property of its owner without said license tag attached to its collar or harness shall be deemed to be unlicensed.

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CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

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

1. "Animal" means every wild, tame, or domestic member of the animal kingdom other than the genus and species Homo sapiens.

2. "At large" means off the premises of the owner, unless:

   A. The animal is on a leash, cord, chain, or similar restraint not more than six (6) feet in length and under the control of the person; or

   B. The animal is within a motor vehicle; or

   C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or animal shelter.

3. "Dangerous animal per se" means:

   A. Badgers, wolverines, weasels, mink and other Mustelids (except ferrets);

   B. Black widow spiders and scorpions;

   C. Racoons, opossums and skunks;

   D. Wolves and coyotes;

   E. Bears;

   F. All apes (including chimpanzees), baboons and macaques;

   G. Monkeys, except the squirrel monkey, female spider monkey and female woolly monkey;

   H. Elephants;

   I. Wild boar;

   J. Snakes that are naturally venomous or poisonous;

   K. All cats, except domestic cats (Carnivora of the family Felidae including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.).

4. "Dog" means and includes members of the canine species, male of female, whether neutered or not.

5. "Dangerous dog" means any dog shall be categorized as a dangerous dog if it fits into any of the following categories:

A. Any dog which, when unprovoked, bites a person or a domestic pet or animal, whether on public or private property.

B. Any uncontrolled dog that chases or approaches a person without provocation in a manner that threatens the safety of humans or domestic pets or animals.

C. Any dog with a demonstrated propensity, tendency, or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or domestic pets or animals. This category shall include a security dog that has been trained to attack.

D. Acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.

6. "Provocation" means that the threat, injury, or damage caused by the dog was sustained by a person who, at the time, was willfully trespassing upon the premised occupied by the owner of the dog, or the person was tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.

7. "Vicious animal" means any animal, including a dog, except for a dangerous animal per se, as listed above, if it fits into any of the following categories:

A. Any dog or animal that according to the records of a health department, Police Department, or humane society or according to any other records available to the Police Department has directly inflicted any physical injury that resulted in broken bones or lacerations requiring sutures on a human being without provocation on public or private property.

B. Any dog or animal that has killed a domestic pet or animal without provocation while off its owner's property.

C. Any dog or animal while off its owner's property without provocation bites, attacks, or endangers the safety of humans, domestic pets, or animals.

8. Exceptions. A dog shall not be categorized as dangerous or vicious if it bites, attacks, or menaces a person, domestic pet or animal in order to:

A. Defend its owner, caretaker, or another person from an attack by a person or animal.

B. Protect itself, its young or another animal.

C. Defend itself against any person or animal that has tormented, assaulted or abused it.

D. Defends its owner's or caretaker's property against trespassers.

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

57.03 KEEPING OF DANGEROUS DOGS REGULATED. The owner or caretaker of any dog determined to be dangerous pursuant to the provisions of the City Code shall comply with the following regulations:

1. No person owning, harboring, or having care of a dangerous dog may permit such a dog to go outside of its kennel or pen unless the dog is securely leashed on a leash no longer than 4 feet in length.

2. No person may permit a dangerous dog to be kept on a chain, rope, leash or similar restraining device outside its kennel or pen unless a person competent to govern the animal is in physical control of the restraining device and remains in position to control the dog at all times. The dog may not be leashed to inanimate objects such as trees, posts, and buildings.

3. No dangerous dog may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the dog to exit the building on its own volition, except through a door leading directly to a pen or kennel.

4. No dangerous dog may be kept in a house or structure when the windows are open or when screen windows or doors are the only obstacle preventing the dog from exiting the structure.

5. The owner of a dangerous dog must successfully complete a dog behavior modification course at owner's expense instructed by a licensed or certified dog behavior specialist within 60 days after receiving notification declaring the dog dangerous. The owner shall be required to provide a copy of proof of successful completion of the course to the Police Chief and the proof shall include certification or receipt bearing the name of the instructor and the dates of instruction.

6. The owner of a dangerous dog must microchip the dog at the owner's expense within 60 days after receiving notification declaring the dog dangerous in addition to licensing the pet in accordance with Chapter 56 of this Code in order to assist in locating the dangerous dog should it be found at large.

7. The owner shall allow the dog to be photographed for identification purposes.

8. The dog shall be spayed or neutered at the owner's expense.

57.04 KEEPING OF VICIOUS DOGS REGULATED. The owner or caretaker of any dog determined to be vicious pursuant to the provisions of the City Code shall comply with the following regulations:

1. No person owning, harboring, or having care of a vicious dog may permit such a dog to go outside of its kennel or pen unless the dog is securely leashed on a leash, no longer than 4 feet in length.

2. No person may permit a vicious dog to be kept on a chain, rope, leash or similar restraining device outside its kennel or pen unless a person competent to govern the animal is in physical control of the restraining device and remains in position to control the dog at all times. The dog may not be leashed to inanimate objects such as trees, posts, and buildings.

3. A vicious dog outside the dog's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when either shown in a sanctioned American Kennel Club Show or upon prior written approval by the Police Chief or his designee.

4. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel on the premises of the owner or caretaker, except when leashed and muzzled. When constructed in an open yard, the pen or kennel must be childproof from the outside and dog proof from the inside. A strong metal double fence with adequate space between fences (at least 2 feet) must be provided so that a child cannot reach into the dog enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the City. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

5. No vicious dog may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the dog to exit the building on its own volition, except through a door leading directly to a pen or kennel meeting all the requirements of this subsection. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

6. The owner or caretaker of a vicious dog shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of no less than 2 inches high warning that there is a vicious dog on the property. A similar sign is required to be posted on the kennel or pen of the dog.

7. The owner or caretaker of a vicious dog shall immediately notify the Police Department if the dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died, has been sold or has been given away. If the vicious dog has been sold or given away, the owner or caretaker shall also provide the Police Department with the name, address and telephone number of the new owner of the vicious dog. If the vicious dog is sold or given away to a person residing outside the City, the owner or caretaker shall present evidence to the Police Department showing that he or she has notified the Police Department or other law enforcement agency of the dog's new residence.

8. An owner or caretaker of any dog declared vicious found to be in violation of any section of this Code related to vicious dogs shall be ordered in writing to safely remove the dog from the City or destroy the animal within 10 days.

9. The owner of a vicious dog must successfully complete a dog behavior modification course at owner's expense instructed by a licensed or certified dog behavior specialist within 60 days after receiving notification declaring the dog vicious. The owner shall be required to provide a copy of proof of successful completion of the course to the Police Chief and the proof shall include certification or receipt bearing the name of the instructor and the dates of instruction.

10. The owner of a vicious dog must microchip the dog at the owner's expense within 60 days after receiving notification declaring the dog vicious in addition to licensing the pet in accordance with Chapter 56 of this Code in order to assist in locating the vicious dog should it be found at large.

11. The owner of a vicious dog shall be denied a permit for the dog to enter any park designated as a dog park in the City of Polk City.

12. The owner shall allow the dog to be photographed for identification purposes.

13. The dog shall be spayed or neutered at the owner's expense.

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

1. Dogs used while in the line of duty by the Police Department, any other law enforcement agency or unit of the United States Military Service.

2. The keeping of guard dogs; however, guard dogs must always be kept within a structure or fixed enclosure, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 57.04. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Police Chief that a guard dog is on duty at said premises.

57.06 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS ANIMALS OR VICIOUS DOGS.

1. Upon investigation, a peace officer may determine whether a dog fits into any of the categories of dangerous dog or vicious dog. The officer shall immediately inform the owner or caretaker in writing, by personal service or by certified mail, of said determination.

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

3. Any animal in violation of 57.04 may be issued an Order of Removal by a peace officer. The order to remove a vicious animal or dog issued by a peace officer may be appealed to the Police Chief. To appeal such an order, written notice of appeal must be filed with the City Clerk within five (5) business days after receipt of the order contained in the notice to remove the dangerous animal or vicious dog. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the peace officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. Upon receiving a notice of appeal, a hearing shall be convened, chaired by the Chief of Police or designee, to receive any testimony or other evidence that is deemed appropriate concerning the removal order.

5. When an appeal has been filed, the peace officer shall make a reasonable effort to notify any persons who would have had direct involvement in the situation which led to the Order of Removal, including those persons who were injured or who are owners or keepers of any animals which were injured by the animal.

6. The appeal shall be heard by a committee appointed by the Chief of Police consisting of a minimum of three people, including the City Manager, a dog professional, and an animal control officer from another agency or his/her designee. The hearing of such an appeal shall be scheduled within ten (10) days of the receipt of notice of appeal. After such a hearing, the committee may affirm or reverse the order

of the peace officer. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing or any continued session thereof.

7. Pending the outcome of the hearing, the dog must be securely confined in a humane manner either on the premises of the owner or caretaker pursuant to 57.04 or with a licensed veterinarian.

8. If the committee affirms the action of the peace officer, the committee shall order in its written decision that the person owning, sheltering, harboring, or keeping such a dangerous animal or vicious dog remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the animal control officer is not appealed and is not complied with within three (3) days of its issuance, the animal control officer is authorized to seize and impound such dangerous or vicious 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 decision and order of the committee was issued has not petitioned the District Court for a review of said order, the City shall cause the animal to be disposed of by sale or destroy such animal in a humane manner. Failure to comply with an order of the City issued pursuant hereto constitutes a misdemeanor offense.

57.07 INSURANCE. Every person keeping or maintaining a dangerous or vicious dog as provided in this chapter, or a guard dog as provided in this chapter, shall accompany any application, or display upon request by the Police Chief or designee a certificate of insurance from an insurance company authorized to do business in the State with coverage of at least one hundred fifty thousand dollars ($150,000.00) combined single limit liability for bodily injury. Such a certificate of insurance shall provide that no cancellation of the insurance will be made unless ten (10) days' written notice is first given to the City Clerk. Failure to provide or display such certificate of insurance shall be determined to be in violation of the vicious dog code as provided in this chapter.

57.08 PENALTY. Violation of any provision of this chapter by an owner of an animal may be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa*, pursuant to Chapter 3 of this Code of Ordinances. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

(Chapter 57 – Ord. 2023-9300 – Nov. 23 Supp.)

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means all areas zoned C1 or C2, as shown on the City's Official Zoning Map.

2. "MPH" means miles per hour.

3. "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.

4. "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.

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

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

7. "School district" means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.

8. "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.

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

10. "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.

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

12. "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.

13. "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 and 321.236[2])

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall make an initial request to the Police Chief and shall provide information concerning the time and date for the parade and the streets or general route therefor. The Police Chief shall then take the request to the Council for final approval, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.

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

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

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, in conjunction with the Public Works Director, 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] and 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] and 321.255)

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

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

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

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

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

25. Section 321.219 – Permitting unauthorized minor to drive.

26. Section 321.220 – Permitting unauthorized person to drive.

27. Section 321.221 – Employing unlicensed chauffeur.

28. Section 321.222 – Renting motor vehicle to another.

29. Section 321.223 – Driver's license inspection for motor vehicle rental.

30. Section 321.224 – Record kept.

31. Section 321.232 – Speed detection jamming devices; penalty.

32. Section 321.234A – All-terrain vehicles, highway use.

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

34. Section 321.235B – Low-speed electric bicycles.

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

36. Section 321.257 – Official traffic control signal.

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

38. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.

39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.

40. Section 321.263 – Information and aid; leaving scene of personal injury accident.

41. Section 321.264 – Striking unattended vehicle.

42. Section 321.265 – Striking fixtures upon a highway.

43. Section 321.266 – Reporting accidents.

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

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

46. Section 321.277 – Reckless driving.

47. Section 321.277A – Careless driving.

48. Section 321.278 – Drag racing prohibited.

49. Section 321.281 – Actions against bicyclists.

50. Section 321.284 – Open container in motor vehicles, drivers.

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

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

120. Section 321.404 – Signal lamps and signal devices.

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

122. Section 321.405 – Self-illumination.

123. Section 321.408 – Back-up lamps.

124. Section 321.409 – Mandatory lighting equipment.

125. Section 321.415 – Required usage of lighting devices.

126. Section 321.417 – Single-beam road-lighting equipment.

127. Section 321.418 – Alternate road-lighting equipment.

128. Section 321.419 – Number of driving lamps required or permitted.

129. Section 321.420 – Number of lamps lighted.

130. Section 321.421 – Special restrictions on lamps.

131. Section 321.422 – Red light in front, rear lights.

132. Section 321.423 – Flashing lights.

133. Section 321.430 – Brake, hitch, and control requirements.

134. Section 321.431 – Performance ability.

135. Section 321.432 – Horns and warning devices.

136. Section 321.433 – Sirens, whistles, and bells prohibited.

137. Section 321.434 – Bicycle sirens or whistles.

138. Section 321.436 – Mufflers, prevention of noise.

139. Section 321.437 – Mirrors.

140. Section 321.438 – Windshields and windows.

141. Section 321.439 – Windshield wipers.

142. Section 321.440 – Restrictions as to tire equipment.

143. Section 321.441 – Metal tires prohibited.

144. Section 321.442 – Projections on wheels.

145. Section 321.444 – Safety glass.

146. Section 321.445 – Safety belts and safety harnesses; use required.

147. Section 321.446 – Child restraint devices.

148. Section 321.449 – Motor carrier safety rules.

149. Section 321.449A – Rail crew transport drivers.

150. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.

151. Section 321.450 – Hazardous materials transportation regulations.

152. Section 321.454 – Width of vehicles.

153. Section 321.455 – Projecting loads on passenger vehicles.

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

62.02 PLAY STREETS DESIGNATED. The 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. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

(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. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

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. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

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. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

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 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated, within the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle. Violations of this section will be considered a non-moving violation.

2. The usage of an engine brake, compression brake, or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of 300 feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

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CHAPTER 63

SPEED REGULATIONS

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. On N. 3rd Street, from 1,350 feet north of Broadway to the intersection of N. 3rd Street and Hugg Drive. ***(Ord. 2022-1400 – Feb. 23 Supp.)***

   B. On 3rd Street, from 728 feet south of Broadway to a point 2,008 feet south of Broadway.

   C. On Broadway, from 250 feet northwest of 5th Street to 250 feet north of Prairie Ridge Drive.

D. On West Bridge Road, from S. 3rd Street (HWY 415) west to the City limits.

E. On Parker Boulevard, from West Bridge Road to a point 700 feet south of the intersection with West Wahkonsa Avenue.

F. On East Northside Drive, from N. 3rd Street to N. 6th Street.

2. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On East Northside Drive, from N. 6th Street to the east City limit.

B. On N. 3rd Street, from 3,810 feet north of Broadway to the north City limit.

C. On 3rd Street, from 2,008 feet south of Broadway to the south City limit.

D. On N. Broadway, from 250 feet north of Prairie Ridge Drive to the City limits.

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)

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CHAPTER 64

TURNING REGULATIONS

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.

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 AUTHORITY AND COMPLIANCE. The City has designated, as allowed in Section 321.236(6) of the *Code of Iowa*, certain through streets and stop intersections requiring that all vehicles stop or yield the right-of-way before entering or crossing such intersections or requiring all vehicles to stop at one or more entrances to such intersections. Every driver of a vehicle shall stop as directed at locations where an official stop sign is posted.

65.02 SCHOOL DISTRICTS. Moveable school stop signs shall be placed at pedestrian crosswalks within school districts on school days at the beginning and end of the school day and if necessary during lunch hour, whereupon the driver of a vehicle shall bring such vehicle to a full stop at a point ten feet from the approach side of the crosswalk in proximity thereto and, thereafter, proceed slowly and in a careful and prudent manner until the drive has passed such school districts.

(Code of Iowa, Sec. 321.1[70])

65.03 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

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

65.05 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

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

(Code of Iowa, Sec. 321.471 and 472)

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

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

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

(Code of Iowa, Sec. 321.473 and 475)

- NONE -

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Police Chief may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits. 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 ROUTES. Truck route regulations are established as follows:

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

(Code of Iowa, Sec. 321.473)

A. Broadway, from the north City limit to Third Street.

B. Third Street, from the south City limit to the north City limit.

C. Bridge Road, from the west City limit to Third Street.

D. Northside Drive, from the east City limit to Third Street.

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

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

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. All violations of any provisions of this section are hereby declared simple misdemeanors punishable by a fine of at least $50.00 plus surcharge and court costs and/or municipal infractions punishable by a penalty as listed in Chapter 3 of this Code of Ordinances. Violations may be prosecuted as either a misdemeanor criminal offense or a municipal infraction at the sole discretion of the peace officer.

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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])

- NONE -

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CHAPTER 69

PARKING REGULATIONS

69.01 AUTHORITY AND COMPLIANCE. The City has designated, as allowed in Section 321.236(1) of the *Code of Iowa*, certain areas where the standing or parking of vehicles is regulated by traffic control devices. No person shall stop, park, or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

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

(Code of Iowa, Sec. 321.361)

69.03 PARKING ON ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. West Broadway, on the south side, from Second Street to Third Street.
2. Second Street, on both sides, from West Broadway to West Van Dorn Street.
3. West Van Dorn Street, on both sides, from Second Street to Third Street.
4. Second Street, on the west side, from West Wood Street to West Church Street.

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

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 48 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.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])

2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])

3. Mailboxes. Within 20 feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])

4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])

5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])

6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])

7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])

8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])

9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])

10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])

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

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

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

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

14. Churches, Nursing Homes, and Other Buildings. A space of 50 feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than 25 sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection do not apply to a vehicle parked in any alley that is 18 feet wide or less, provided that said vehicle is parked to deliver goods or services.

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

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

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

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

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

19. The parking of vehicles of any kind on public easements is prohibited unless specific action by the Council allows such parking to occur.

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

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

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

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

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

B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*.

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

69.09 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. Westside Drive on the north and northeasterly side from Crestmoor Drive to Tyler Street.

2. Sunset Street on the south and southeasterly side from Crestmoor Drive to Westside Drive.

3. Lyndale Drive on the north side from N. Parker Boulevard to Tyler Street.

4. Bel-Aire Road on the south side from Crestmoor Drive to Oaklyn Drive.

5. Crestmoor Drive on the west side between Bel-Aire Road and Westside Drive.

6. Oaklyn Drive on the east side between Bel-Aire Road and Lyndale Drive.

7. Tyler Street on the west and northwest side between Broadway Street and the southern end of Tyler Street.

8. Tyler Street on the south and southeasterly side between Lyndale Drive and Broadway Street.

9. Lyndale Drive on the south and southwesterly side between Tyler Street and Forest Street.

10. Forest Street on the southeasterly side between Broadway Street and the southwesterly end of Forest Street.

11. Hillcrest Drive on the east side between Washington Street and Bel-Aire Road.

12. W. Washington Street on the south side from N. Parker Boulevard to Booth Street.

13. Booth Street on both sides between Broadway Street and Washington Street.

14. Adams Street on the west side between Phillips Street and Washington Street.

15. Lincoln Street on the east side between Phillips Street and Washington Street.

16. Roosevelt Street on the west side from Washington Street to Edgewater Drive.

17. Phillips Street on the northeasterly side between N. Parker Boulevard and Roosevelt Street.

18. Tyler Street on the easterly side between Davis Street and Phillips Street.

19. Davis Street on the south side between Roosevelt Street and South Third Street.

20. Waldo Street on the south side between Tyler Street and Stippich Street.

21. Phillips Street on the south-southeasterly side between Tyler Street and Grimes Street.

22. Stippich Street on the west side between Davis Street and the north end of Stippich Street.

23. Third Street on both sides between Bluff Street and the north City limit.

24. East Northside Drive on both sides between North Third Street and the east City limit.

25. East Madison Drive on both sides between North Third Street and North Sixth Street.

26. North Sixth Street on both sides between East Northside Drive and East Madison Drive.

27. Tyler Street on both sides between Broadway Street and Washington Street.

28. Davis Street on the north side between Roosevelt Street and a point 403 feet east.

29. Roosevelt Street on the east side between Washington Street and a point 80 feet south.

30. Broadway Street on both sides between Third Street and Jester Park Drive.

31. Fourth Street on the west side from Van Dorn Street north to a point halfway between Van Dorn Street and Broadway Street.

32. Second Street on the east side from 66 feet south of Broadway Street to a point 99 feet south of Broadway Street.

33. Third Street on the east side from Van Dorn Street to a point 72 feet north.

34. Northwesterly 32 feet of the alley adjacent to the southwesterly line of Lot 7 of Block 14 of the Original Town.

35. Pine Ridge Drive on the north-northeast side between South Third Street and Southside Drive.

36. Pine Valley Place on the east side through the cul-de-sac.

37. Sandpiper Court on both sides from South Third Street to South Fifth Street.

38. South Fifth Street on both sides from Sandpiper Court to West Bridge Road.

39. Northwest Wahkonsa Avenue on the south-southwesterly side from Parker Boulevard to North Apache Street.

40. North Apache Street on the west side from Northwest Wahkonsa Avenue to West Cherokee Court.

41. West Cheyenne Court on the north side from North Apache Street to North Cherokee Drive.

42. North Cherokee Drive on the east side from West Jester Park Drive to West Wahkonsa Avenue.

43. West Ridge Court on the south side through the cul-de-sac.

44. Deer Haven Street on the easterly side from E. Pine Ridge Drive to E. Broadway Street.

45. Whispering Pine Avenue on the north-northwesterly side starting from the west end through the cul-de-sac.

46. East Timberline Drive on the south side between South Deer Haven Street through the cul-de-sac.

47. Mallard Bay Place on the east side to Lakeview Avenue.

48. Lakeview Avenue on the south side of the street including both culs-de-sac.

49. Cedar Drive on the west side of street from Timberline Drive to Southside Drive.

50. Tyler Street on the east side from West Bridge Road to Davis Street.

51. Edgewater Drive on the north side beginning at 831 Edgewater Drive to Parker Boulevard.

52. Edgewater Drive on the west side beginning at 817 Edgewater Drive through 831 Edgewater Drive.

53. Edgewater Drive on the south side beginning at 801 Edgewater Drive through 817 Edgewater Drive.

54. East Hansen Place on the west side beginning at 440 South Timberline Drive continuing through the cul-de-sac to 500 East Hansen Place.

55. East Hansen Place on the south side beginning at 500 Hansen Place through the cul-de-sac to 1191 East Hansen Place.

56. East Hansen Place on the west side from Timberline Drive to Lot 23.

57. W. Vista Lake Avenue on the north side from North Third Street to Wolf Creek Drive.

58. Wolf Creek Drive on the south and westerly side from North Third Street to Meadows Court.

59. West Trace Drive on the west-southwesterly side from the north property boundary of Wolf Creek Townhomes Plat 6 to Wolf Creek Drive.

60. Prairie Ridge Drive on the south-southwesterly side from North Broadway Street through the cul-de-sac.

61. Prairie Ridge Lane on the west side from the north end through the cul-de-sac.

62. West Ridge Court on the north side from North Cherokee Drive to a point 50 feet southwesterly.

63. West Trace Drive on the north side from Wolf Creek Drive to a point 60 feet west.

64. Oakwood Place on the east side from Oakwood Drive through the cul-de-sac.

65. Oakwood Drive beginning on the north-northwesterly side from North Broadway continuing on the same side of the street through the cul-de-sac.

66. King's Place on the west side from Lot 6 through the cul-de-sac to West Broadway Street.

67. Tradition Drive on the east side from West Broadway to a point 150 feet north.

68. Tradition Drive on the west side from West Broadway continuing on the same side of the street to 1001 Tradition Drive.

69. E. Southside Drive on the south-southwesterly side from S. 3rd Street to a point 865 feet southeasterly from Cedar Drive.

70. Marina Cove Drive on the west-southwesterly side from E. Southside Drive through the cul-de-sac.

71. Marina Cove Court on the north side starting at 231 Marina Cove Court and continuing through the cul-de-sac through 230 Marina Cove Court.

72. Anchor Away Drive on the east side from East Southside Drive to Marina Cove Drive.

73. East Pine Ridge Drive on the west side from the intersection of East Southside Drive to a point 135 feet north.

74. Pine Ridge Drive on the east-northeasterly side from East Southside Drive to Anchor Away Drive.

75. North Parker Boulevard on both sides from West Bridge Road to West Broadway.

76. Maple Drive on the east side from Westside Drive to Lyndale Drive.

77. Maple Drive on the east side through the cul-de-sac.

78. Northern Trace Court on the south side from West Trace Drive to Wolf Creek Drive.

79. Northern Trace Court on the north side from West Trace Drive to a point 60 feet northeasterly.

80. 2nd Street on the west side from W. Van Dorn Street to a point 99 feet south.

81. W. Van Dorn Street on the north side from Booth Street to 4th Street.

82. W. Van Dorn Street on the south side between 4th Street and a point 60 feet west.

83. Winding Creek Circle through the cul-de-sac.

84. W. Van Dorn Street on the north side from S. 2nd Street to S. 1st Street.

85. N. 3rd Street on the west side from Walnut Street to a point 40 feet northwesterly.

86. Orchard Lane beginning on the south side from N. Broadway Street continuing on the same side of the street through the cul-de-sac.

87. E. Vista Lake Avenue on both sides from North 3rd Street to the east end of E. Vista Lake Avenue.

88. E. Southside Drive on the north-northeasterly side from Cedar Drive south and east through the cul-de-sac.

89. Juliana Court through the cul-de-sac.

90. Flacon Drive on the south-southwesterly side from N. Broadway Street to the end.

91. Meadow Lake Drive on the north-northwesterly side from Lost Lake Drive to the end.

92. Lost Lake Drive on the westerly side from Jester Park Drive to Prairie Ridge Drive.

93. Robin Court on the north and south sides and through the cul-de-sac.

94. Tanglewood Drive on the south-southwesterly side from W. Washington Street to Woodhaven Drive.

95. Woodhaven Drive on the westerly side from and including the north cul-de-sac through the south cul-de-sac.

96. Lyndale Drive on the west and northwest sides from Parker Boulevard to Tanglewood Drive.

97. Sweet Water Circle on the east and west sides and through the cul-de-sac.

98. Jester Park Drive on the south side from N. Cherokee Drive to N. Broadway Street.

99. Jester Park Drive on the north side from N. Broadway Street west 200 feet.

100. W. Grimes Street on the northerly side from S. 3rd Street to S. 1st Street.

101. W. Grimes Street on the southerly side from S. 3rd Street 100 feet easterly.

102. Phillips Street on the south side from N. Parker Boulevard 110 feet east.

103. W. Washington Street on the north side between Booth Street and Tyler Street.

104. W. Washington Street on the north side between Hillcrest Drive and N. Parker Boulevard.

105. Twelve Oaks Court on the south side between Twelve Oaks Drive and through the cul-de-sac.

106. Twelve Oaks Drive on the west side from E Southside Drive to Marina Cove Drive.

107. Edgewater Drive on the north and south side from Parker Boulevard to Bridgeview Street.

108. Bridgeview Street on the west side from Edgewater Street to the end of the street.

109. Bridgeview Street on the east side from Edgewater Street to a point 80 feet north.

110. Bridgeview Street on the westerly side from Edgewater Street through the cul-de-sac.

111. Breakwater Place on the west side from Seagrass Avenue through the cul-de-sac.

112. Pelican Drive on the west side through the cul-de-sac.

113. N. Broadway Street on both sides from Jester Park Drive to the City Limits.

114. Pelican Drive on the north and westerly side from Parker Boulevard through the cul-de-sac.

115. Starling Court on the north and south sides and through the cul-de-sac.

116. Prairie Ridge Drive on the north and south sides from Cardinal Drive to North Broadway Street.

117. Westside Drive on the south side from N. Parker Boulevard to Crestmoor Drive.

118. Westside Drive on the north side from Parker Boulevard to a point 200 feet east.

119. E. Grimes Street on the northerly side from S. 1st Street east through the cul-de-sac.

120. E. Grimes Street on the south side from Deer Haven Street to a point 150 feet west and east.

121. Burton Drive on the east and southeast side from E. Grimes Street through the cul-de-sac.

122. Oakford Lane on the north and south sides from E. Bridge Road east through the cul-de-sac.

123. W. Church Street on the north side from S. 3rd Street to S. 1st Street.

124. E. Church Street on the north side from S. 1st Street to Deer Haven Street.

125. E. Church Street on the south side from Deer Haven Street to a point 150 feet west.

126. W. Wood Street on the south side from S. 2nd Street to S. 1st Street.

127. E. Wood Street on the south side from S. 1st Street to Deer Haven Street.

128. E. Wood Street on the north side from Deer Haven Street to a point 150 feet west.

129. E. Van Dorn Street on the north side from S. 1st Street to Deer Haven Street.

130. E. Van Dorn Street on the south side from Deer Haven Street to a point 150 feet west.

131. Deer Haven Street on the west side from E. Broadway Street to a point 150 feet feet south.

132. NW Hugg Circle on the easterly side from NW Hugg Drive through the cul-de-sac.

133. Boulder Point on the easterly side from W. Broadway Street to 300 Boulder Point.

134. Boulder Point on the westerly side from W. Broadway Street to a point 90 feet northeasterly.

135. Boulder Point on the westerly side from 300 Boulder Point to a point 80 feet southwesterly.

136. All of Eagle Point including the cul-de-sac.

137. Westside Drive on the southside from Parker Boulevard to Woodhaven Drive.

138. Crossroads Court on the southside from and including the west cul-de-sac through the east cul-de-sac.

139. E. Bridge Road on the southside from S. Third Street to the end of the Plat.

140. E. Bridge Road on the northside from S. Third Street to a point 460 feet east.

141. Redwood Place on the eastside from E. Bridge Road to Crossroads Court.

142. Timber Valley Drive on the west and northerly side from NW Hugg Drive through the cul-de-sac.

143. Timber Valley Drive on the east side from NW Hugg Drive to a point 100 feet south.

144. Timber Valley Circle on the west side through the cul-de-sac.

145. Oak Valley Circle on the north side through the cul-de-sac.

146. W. Trace Place on the west side from Hugg Drive through the cul-de-sac.

147. W. Trace Place on the east side from Hugg Drive to Meadows Court.

148. Meadows Court on the south side from W. Trace Place to North Third Street.

149. Creek View Avenue on the south side from W. Trace Place to North Third Street.

150. Edgewater Drive on the south side from Parker Boulevard to a point 150' east.

151. Bridgeview Street on the south side from Parker Boulevard to a point 150' west.

152. Ledgestone Court on the south and easterly sides from Boulder Pointe through the cul-de-sac.

153. W. Aspen Ridge Circle all of the cul-de-sac and continuing on the south side to NW 9th Street.

154. NE 5th St on the east side from E. Vista Lake Avenue to the end.

155. NE 7th St on the west side.

(Subsections 153-155 – Ord. 2021-2300 – Jan. 22 Supp.)

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

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

1. City Streets. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any street within the City. When actually receiving or delivering merchandise or cargo, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

2. Noise. No such vehicle shall be left standing or parked upon a driveway or lot within any residentially zoned district between the hours of 10:00 p.m. and 7:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment, or other device in operation giving off audible sounds.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than 30 minutes.

69.11 LOADING ZONES. Except for the purpose of loading or unloading goods or merchandise, no person shall stop, stand, or park a vehicle in the following designated loading zones:

1. The northwesterly 32 feet of the alley adjacent to the southwesterly line of Lot 7 of Block 14 of the Original Town of Polk City.

2. The southeasterly 55 feet of the northwesterly 87 feet of the alley adjacent to the southwesterly line of Lot 7 of Block 14 of the Original Town of Polk City.

3. The north side of Broadway Street between Second Street and Third Street.

69.12 SNOW ORDINANCE. To facilitate snow and ice removal operations, the Police Chief or his/her designee may declare the snow ordinance to be in effect. No person shall park, abandon, or leave unattended any vehicle on any public street, alley or on-street parking within the City when the snow ordinance is in effect. No person shall park, abandon, or leave unattended any vehicle on any parking spaces within the town square business district from 2 a.m. to 6 a.m. when the snow ordinance is in effect. Violation of this section shall result in a scheduled fine as set forth in Chapter 70 of this Code. ***(Ord. 2023-9600 – Nov. 23 Supp.)***

69.13 TRUCK, TRAILER, AND BOAT PARKING LIMITED.

1. No person shall park a motor truck having a freight capacity greater than one ton, or any trailer, semi-trailer, tractor, road tractor, or truck tractor unit, boat, camper, recreational vehicle, motor home, or equipment of any type at any time upon any portion of any street except for such reasonable time as may be necessary to load or unload passengers, freight, or other merchandise.

2. No person shall park any non-licensed construction equipment on a street in a residential neighborhood for any period longer than two hours, except while actively using the equipment during normal working hours.

3. No person shall stand or park a tractor-trailer or semi-trailer on any street in a residential area for any period longer than two hours, except that the driver of a tractor-trailer or semi-trailer may temporarily stand or park in a residential area for the purpose of and while actually engaged in loading or unloading such vehicle. This provision applies to the trailer when disconnected from the tractor or from the vehicle meant to tow or pull the trailer.

69.14 TEMPORARY NO PARKING. The Public Works Director and the Police Chief each may, upon application and good cause being shown therefor, authorize temporary no parking upon those streets which are under the jurisdiction of the City and for such time period as deemed appropriate be them. Any such temporary no parking shall be designated by a posted sign. No person shall stop, park, or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate; or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 and 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations, or parking violations which are uncontested, of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of $45.00 for all violations except improper use of a person with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by $5.00. The simple notice of a fine for improper use of a persons with disabilities parking permit is $100.00. Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

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

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

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code; and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. "All-terrain vehicle" or "ATV" means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

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

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

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

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

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

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

4. "Snowmobile" means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or

ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

5. "City street" means all highways, streets, roads, primary and secondary road extensions, whether paved or unpaved, within the City limits.

(Subsection 5 – Ord. 2022-2400 – Feb. 23 Supp.)

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle, or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G and Ch. 321I)

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

1. Streets. Snowmobiles shall be operated only upon streets that 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 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile is brought to a complete stop before crossing the street;

(3) The driver yields the right-of-way to all on-coming traffic that constitutes an immediate hazard; and

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

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

3. 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. City Streets. ATVs and off-road utility vehicles shall not be operated on City streets. ***(Ord. 2022-2400 – Feb. 23 Supp.)***

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."

6. Direct Crossing. An all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:

(Code of Iowa, Sec. 321I.10[5])

A. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

B. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

E. The crossing is made from a street, roadway, or highway on which the all-terrain vehicle is authorized to operate to a street, roadway, or highway on which the all-terrain vehicle is authorized to operate.

(Paragraph E – Ord. 2022-2400 – Feb. 23 Supp.)

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 and 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 $1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

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CHAPTER 76

BICYCLE ORDINANCE

76.01 DEFINITIONS.

1. "Bicycle" means either of the following:

   A. A device having up to four wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

   B. A device having up to four wheels with fully operable pedals and an electric motor of one horsepower or less.

2. "Multi-use trail" means a way or place, the use of which is controlled by the City as an owner of real property, designated by the multi-use recreational trail maps, as approved by resolution by the City Council, and no multi-use trail shall be considered as a street or highway.

76.02 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any multi-use trail, subject to those exceptions stated herein.

76.03 ALTERATION OF SERIAL FRAME NUMBER. It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate, or alter the manufacturer's serial frame number of any bicycle.

76.04 SIRENS AND WHISTLES PROHIBITED. A bicycle shall not be equipped with, and a person shall not use upon a bicycle, any siren or whistle. This section shall not apply to bicycles ridden by peace officers in the line of duty.

76.05 LAMPS AND REFLECTORS.

1. Every bicycle ridden at any time from sunset to sunrise and at such other times when conditions such as fog, snow, sleet, or rain provide insufficient lighting to render clearly discernible persons and vehicles on the highway at a distance of 300 feet ahead shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 300 feet to the front.

2. Every bicycle shall be equipped 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 may be used in lieu of a rear light.

3. Equivalent equipment such as headlamps and red light attachments to the arm or leg may be used in lieu of a lamp on the front and a red light on the rear of the bicycle.

4. A peace officer riding a police bicycle is not required to use either front or rear lamps if duty so requires.

76.06 STOPPING. Every bicycle used upon the City streets, sidewalks, highways, park roads, or multi-use trails shall be able to come to a complete stop within a safe distance.

76.07 APPLICABILITY OF MOTOR VEHICLE LAWS. Every person operating a bicycle upon the City streets, highways, park roads, or multi-use trails shall be subject to this chapter and other City traffic ordinances and the State statutes applicable to the drivers of motor vehicles, except as to special regulations in this chapter and except as to those provisions of ordinances and statutes which by their nature can have no application or those provisions for which specific exceptions have been set forth regarding police bicycles.

76.08 OBEDIENCE TO SIGNALS. Every person operating a bicycle shall obey the directions of official traffic signals, signs, and other control devices applicable to other vehicles, unless otherwise directed by a police officer, and shall obey direction signs relative to turns permitted, unless such person dismounts from the bicycle, when he or she shall then obey the regulations applicable to pedestrians.

76.09 IMPROPER RIDING.

1. A person propelling a bicycle on any street, sidewalk, highway, park road, or multi-use recreational trail, shall not ride other than upon or astride a permanent and regular seat attached to the bicycle and shall not use a bicycle to carry more persons at one time than the number of persons for which the bicycle is designed and equipped.

2. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

76.10 CARRYING PACKAGES. No person operating a bicycle upon a street, sidewalk, highway, park road, or multi-use trail shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handlebars.

76.11 CONTROL WITH HANDS ON HANDLEBARS. The operator of a bicycle upon a street, sidewalk, highway, park road, or multi-use trail shall keep the bicycle under control at all times and at all times during operation shall have one or both hands upon the handlebars and the feet engaged with the braking device if the braking device is designed to be actuated by the feet.

76.12 PLACE OF RIDING.

1. Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

A. When overtaking and passing another bicycle vehicle proceeding in the same direction.

B. When preparing for a left turn at an intersection or into a private road or driveway.

C. When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

D. A facility that would allow bicycle traffic on the left side of the roadway.

2. Any person operating a bicycle upon a roadway which carries traffic in one direction only and has two or more marked traffic lanes, may ride as near the left-hand curb or edge of such roadway as practicable.

3. When so riding upon any multi-use trail with other cyclists, there shall not be more than two abreast.

4. Whenever a usable multi-use trail for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

5. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

76.13 BICYCLE LANES.

1. Whenever a bicycle lane has been established on a roadway, any person operating a bicycle upon the roadway moving in the same direction may ride within the bicycle lane.

2. Any person operating a bicycle within a bicycle lane may move out of the lane when overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane.

3. No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal.

4. No person shall drive a motor vehicle in a bicycle lane established on a roadway except as follows:

A. To park where parking is permitted.

B. To enter or leave the roadway.

C. To prepare for a turn within a distance of 200 feet from the intersection.

76.14 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 or driveway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

76.15 OPERATION ON SIDEWALK. Bicycles may be operated upon the public sidewalks in a careful and prudent manner and except where signs are erected prohibiting riding on the sidewalk. Every person lawfully operating a bicycle upon a public sidewalk shall yield the right-of-way when approaching a pedestrian and shall give an audible signal before overtaking and passing.

76.16 CLINGING TO OTHER VEHICLES. No person riding upon any bicycle on a street, sidewalk, highway, park road, or multi-use trail shall attach the bicycle or himself or herself to any moving vehicle by tow rope, hand grip or otherwise.

76.17 FOLLOWING EMERGENCY VEHICLES. No person riding a bicycle shall follow closer than 500 feet of an emergency vehicle, as defined by Section 321.1 of the *Code of Iowa*, which has emergency lights or siren activated, and shall not stop, park, or leave a bicycle within 500 feet of an emergency vehicle stopped in response to an emergency.

76.18 PARKING. No person shall leave a bicycle lying on its side on any sidewalk, nor shall park a bicycle on a sidewalk in any other position so that there is not an adequate path for pedestrian traffic. Local authorities may, by ordinance or resolution, prohibit bicycle parking in designated areas of the public highway, provided that appropriate signs are erected.

76.19 RECKLESS OPERATION. No person shall operate a bicycle with willful or wanton disregard for the safety of persons or property.

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

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CHAPTER 80

ABANDONED VEHICLES

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

1. "Abandoned vehicle" means any of the following:

   A. A vehicle that has been left unattended on public property for more than 24 hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.

   B. A vehicle that has remained illegally on public property for more than 24 hours.

   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.

   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 10 days. However, a police authority may declare the vehicle abandoned within the 10-day period by commencing the notification process.

   E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

   F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap, or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.

4. "Police authority" means the Iowa State Patrol or any law enforcement agency of a county or city.

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

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

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

80.03 NOTICE BY MAIL.

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.

2. Notice shall be deemed given when mailed. The notice shall include all of the following:

A. A description of the year, make, model, and vehicle identification number of the vehicle.

B. The location of the facility where the vehicle is being held.

C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice required pursuant to this section.

D. A statement that failure of the owner, lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property.

E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.

3. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.

4. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters.

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

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

7. If it is impossible to determine with reasonable certainty the identities and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

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

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

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

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

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

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

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

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

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

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

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

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

80.10 ABANDONED VEHICLES. A property owner shall have the right to employ a garage keeper to dispose of an abandoned vehicle and the garage keeper may take custody of the abandoned vehicle without the initiative of the City police authority.

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CHAPTER 90

WATER SERVICE SYSTEM

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. "Public Works Director" means the Public Works Director 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 PUBLIC WORKS DIRECTOR'S DUTIES. The Public Works Director 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 Public Works Director 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 Public Works Director 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 public water is located within 250 feet of the property line. Once so connected, the customer may not obtain water from any other source, including private wells, without written permission of the Council. All cross connections must be eliminated. Existing

properties not currently connected to the public water system and located within 250 feet of public water system are grandfathered in until such time as there is a change in ownership of the property.

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 City main and made absolutely watertight, reviewed by and documented by the City.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within 60 days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay a connection charge in the amount of $1,100.00, plus an additional charge of $125.00 for each unit in excess of one which is served by the tap, to reimburse the City for costs borne by the City in making water service available to the property served.

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions, of the *State Plumbing Code*.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Public Works Director and in accordance with the following:

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Public Works Director and unless provision is made so that each house, building, or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Public Works Director shall order. All taps in the mains shall be made in the top half of the pipe, at

least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Public Works Director, 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 Public Works Director in such form as the Public Works Director shall require.

5. Conformity. All taps must be in conformity with SUDAS.

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 Public Works Director. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection, and maintenance of the water service pipe from the main to the building served shall be borne by the owner. (Water service pipe is defined as that portion of the service line which connects to the City-owned water main and supplies water to the building and includes the curb valve and ends with the inclusion of the interior valve.) The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

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

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Public Works Director. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

90.15 INTERIOR VALVE. The owner shall install and maintain 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 Public Works Director before they are covered, and the Public Works Director shall keep a record of such approvals. If the Public Works Director 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 Public Works Director to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Public Works Director 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 Public Works Director has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Public Works Director 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.

90.20 WATER USAGE RESTRICTIONS. The Council or City Manager may impose restrictions upon the use of water for the watering or sprinkling of outdoor lawns, yards, gardens or landscaped areas, or against other nonessential use, during times of emergency caused by a shortage of water supply. Any person found to be using water in violation of such restrictions shall be first warned of such violation by dated written notice. If such person is found to have violated the restrictions on a second occasion, such person's water service shall be discontinued and shall not be reconnected until a reconnection fee in the amount of $150.00 is paid to the City.

90.21 LIABILITY OF CITY. The City shall in no event be held responsible for claims made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruption of the supply of water caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages or have any portion of a payment refunded for any interruption of service which in the opinion of the City may be deemed necessary.

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CHAPTER 91

WATER METERS

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters 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 Public Works Director. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing. Meters shall be kept free of all vegetation or any obstructions that limit access to the meter. If the area must be cleared, a 10-day notice shall be mailed to the owner, and if not resolved, the City shall remove the vegetation or obstruction and bill the owner for time and materials.

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 Public Works Director and shall be of a design and construction approved by the Public Works Director.

91.06 METER COSTS. The full cost of any meter larger than a three-quarter inch meter shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Public Works Director shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.08 RIGHT OF ENTRY. The Public Works Director shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter. Failure to comply with request to enter and inspect property shall result in a municipal infraction being filed against the owner of record of the property and legal action may be applicable.

91.09 METER TESTING. The Public Works Director or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of five percent or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than five percent of the total water bill and not for a longer period than three months. If the meter is found to be accurate or slow or less than five percent fast, the user shall pay a testing charge of $25.00.

91.10 SEPARATE METERS. Each individual dwelling unit of each individual, commercial, or industrial premises shall be served by separate water meters, except as otherwise provided in this chapter. Multiple dwellings of three or more dwelling units, and commercial or industrial premises, may be served by one water meter, provided that the owner of the dwelling or premises is responsible for the payment of all water bills.

91.11 METER FAILURE. In the event a water meter does not register properly, the water service charges for that month shall be based upon the average monthly consumption of the prior six months.

91.12 REMOTE READERS. All private water connections hereafter installed, whether for residential or commercial use, shall include a remote recording device. The remote recording devices shall be installed at a convenient location on the interior or exterior of the structure served by the water service connection to register the volume of water passing through the water meter. The remote recording device shall be furnished by and remain the property of the City.

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CHAPTER 92

WATER RATES

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 WATER SERVICE. Service shall be furnished at the following monthly rates and classification within the City:

1. Domestic rate is the water used for human consumption and needs of a particular location.

Gallons Used Per Month	Rate
Service Availability Charge	$10.62 (minimum bill)
Usage Charge	$7.10 per 1,000 gallons

2. Irrigation/garden rate is the water used for irrigation/garden purposes and these water uses are billed on a separate meter from the domestic meter.

Gallons Used Per Month	Rate
All Usage/1000 gallons	$12.12 (minimum bill)

(Section 92.02 – Ord. 2023-9000 – Nov. 23 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates 150 percent of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 and 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the last business day of each month.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the second to last business day of the following month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent of the amount due shall be added to each delinquent bill.

4. Shut Off Notices. A fee of $15.00 shall be added to the customer's utility bill when it remains unpaid by the 5th day of the month and the Clerk's office determines a shut-off letter should be sent to the customer.

5. Handling Fee of Any Dishonored Payment. A fee of $25.00 shall be added to the customer's utility bill when any payment given to the City in payment of a utility service or any other service rendered by the City has been returned or dishonored by the bank.

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

(Code of Iowa, Sec. 384.84)

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

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

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

4. Fees. A fee of $75.00 shall be charged and payable along with delinquent service amount before service is restored to a delinquent customer, provided that application is made no less than one hour prior to closing of any business day, Monday through Friday. The reinstatement fee shall be $150.00 if application is made at any other time. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

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

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

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall

also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer not the owner of the premises served a $100.00 deposit intended to guarantee the payment of bills for service. Provided, however, if the customer elects to have payments of bills for service automatically withdrawn from their bank account through the automatic clearinghouse procedure, the customer deposit shall be waived.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a fee for restoring service during business hours. The City will not drain pipes or pull meters for temporary vacancies.

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CHAPTER 93

CROSS CONNECTIONS AND BACKFLOW PREVENTION

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

1. "Approved backflow prevention assembly" means backflow assemblies complying with the *Iowa State Plumbing Code* Section 641-25.5(1)b or Section 641-25.5(1)c for containment in a fire protection system.

2. "Auxiliary water supply" means any water supply on or available to the premises other than the City's public water supply such as, but not limited to a private well, pond, or river.

3. "Back-pressure" means the flow of water or other liquids, mixtures, or substances under pressure into the distribution pipes of a potable water supply system from any source(s) other than the intended source.

4. Back-siphonage" means the flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply system from any source(s) other than the intended source, caused by the reduction of pressure in the potable water supply system.

5. "Backflow" means the reversal of the normal flow of water caused by either back-pressure or back-siphonage.

6. "Containment" means a method of backflow prevention which requires a backflow prevention assembly on certain water services. Containment requires that the backflow prevention assembly be installed on the water service as close to the public water supply main as is practical. Directly after the discharge end of the water meter is the best location.

7. "Cross connection" means any connection or arrangement, physical or otherwise, between a potable water supply system and any plumbing fixtures or tank, receptacle, equipment, or device, through which it may be possible for non-potable, used, unclean, polluted, or contaminated water, or other substance, to enter into any part of such potable water system under any condition, including but not limited to lawn or other landscaping irrigation systems, water powered or water assisted sump pumps, yard hydrants, or other potentially hazardous water connections.

8. Customer" means the owner, operator, or occupant of a building or property which has a water service from the public water system, or the owner or operator of a private water system which has water service from the public water system.

9. High hazard cross connection" means a cross connection which may cause an impairment of the quality of the potable water by creating an actual hazard to the public

health, through poisoning or through the spread of disease by sewage, industrial fluids, or wastes.

10. "Isolation" means a preferred method of backflow prevention which requires the installation of a backflow prevention assembly at a suitable location within a plumbing system to isolate a known or possible hazardous cross connection (e.g. boilers, commercial or industrial mixing processes, irrigation systems, etc.) rather than at the water service entrance.

11. "Licensed backflow prevention assembly technician" means a person meeting all requirements for the testing and repair of backflow prevention assemblies and who is licensed and registered with the Iowa Department of Public Health.

12. Reduced pressure principal backflow prevention assembly" also referred to as a "Reduced pressure zone (RPZ)" device means a backflow prevention assembly consisting of two independently acting internally loaded check valves, a different pressure relief valve, four properly located test cocks, and two isolation valves. This assembly is required on all lawn or other landscaping irrigation systems, chemically treated boiler systems, or any system where any potential hazardous chemicals are present or can be introduced into the public water system during a failure of that system.

13. Water Service", depending on the context, means the physical connection between a public water system and a customer's building, property or private water system, or the act of providing potable water from a public water system to a customer.

93.02 WATER UTILITY ADMINISTRATIVE AUTHORITY.

1. The administrative authority for this chapter is the City Council acting through the water utility or such persons or departments as the City Council shall designate.

2. The City shall require the submission of plans, specifications and other information deemed necessary for a building, property, or private water system to which a water service is proposed. The information submitted shall be reviewed to determine if cross connections will exist and the degree of hazard. Each customer shall survey the activities and processes which receive water from the water service and shall report to the City if cross connections exist and the degree of hazard.

3. The owner of a building, property, or private water system shall install, or cause to be installed, an approved backflow prevention assembly for containment as directed by the City before water service is initiated.

4. The City shall have the right to access any property to inspect the plumbing of any building, property, and private water system which has a water service to determine if cross connections exist and the degree of hazard. Failure to grant access for inspection shall be cause for termination of water service.

5. If the City determines that non-potable water may potentially enter the public water supply, the customer shall be required to install the appropriate backflow prevention assembly for containment. If a customer refuses to install a backflow prevention assembly for containment when it is required, water service to the customer may be discontinued until an appropriate backflow prevention assembly is installed.

6. Dual connections with a direct connection to the public water supply and other auxiliary supplies such as wells, ponds, rivers, or industrial waters are strictly prohibited.

7. Cross connections from any well or other source of water to any piping system connected to the Des Moines Water Works distribution mains are prohibited.

8. The customer shall be responsible for ensuring that no cross connections exist within their premises starting at the water service entrance unless approved backflow prevention is installed.

9. The customer shall prevent pollutants and contaminants from entering their facility's potable water supply system or the City's distribution mains by all means necessary to prevent backflow.

10. All water-using devices must be so designed that backflow to the distribution system cannot occur.

11. Where harmful contaminants or pollutants are used with any device or process connected to the water system, the customer must install and maintain an approved testable reduced pressure backflow prevention assembly in accordance with these Rules and Regulations and any applicable plumbing code requirements.

12. All permanently installed underground irrigation systems shall contain an approved testable backflow prevention assembly at the water service entrance designed to prevent backflow to the City's distribution system.

13. All newly constructed fire suppression systems shall contain an approved testable backflow prevention assembly at the water service entrance designed to prevent backflow to the City's distribution system.

93.03 BACKFLOW PREVENTION.

1. All new and existing service lines are subject to the requirements of the State of Iowa and any applicable local Plumbing Codes respecting backflow prevention and in addition are also subject to the specific requirements set forth in this Chapter. State of Iowa requirements are set forth in the Rules of the Public Health Department, Chapter 25 *State Plumbing Code*, Rule 25.1, 641 I.A.C 25.5.

2. An approved backflow prevention assembly for containment as defined in applicable State and local plumbing codes shall be installed at the domestic water service entrance as a condition of service to all newly constructed or remodeled commercial buildings. Any upgrade to an existing service line is deemed a new service.

3. An approved backflow prevention assembly for containment shall be installed at the water service entrance in any existing service where an actual or potential cross connection to non-potable or hazardous substances exists, is created, or is identified by the City. All commercial, multi-tenant properties are deemed to have a potential for cross connections to non-potable or hazardous substances.

4. Private wells and any piping served by a private well shall be physically disconnected from any plumbing pipes and fixtures that will be connected to the City's distribution system. If a well will be left in service, no well equipment or piping shall be allowed to remain in the building even if it is physically separated or isolated with a valve. An approved reduced pressure zone backflow prevention assembly will be required at the service entrance.

5. Backflow prevention assemblies for containment shall be installed immediately following the water meter or as close to that location as deemed practical by the City.

93.04 BACKFLOW PREVENTION ASSEMBLIES FOR FIRE PROTECTION SYSTEMS.

1. A fire protection system using antifreezes or other additives shall be protected by an approved reduced pressure principal backflow prevention assembly.

2. A dry type fire protection system shall be protected by an approved double check valve backflow prevention assembly.

3. Backflow prevention assemblies must be tested annually on a routine scheduled basis by the required licensed technician. The City fire marshal and water utility are both to be copied with test results.

93.05 CUSTOMER REQUIREMENTS.

1. The customer shall be responsible for ensuring that no cross connections exist without an approved backflow prevention assembly.

2. The customer shall immediately notify the City water utility when the customer becomes aware that backflow has occurred in the building, property, or private water system receiving water service, and take measures to confine the contamination or pollution by turning off valves to isolate the area of the incident. The City may order that a water service be temporarily shut off when a backflow occurs in a customer's building, property, or private water system.

3. The customer shall cause installation, operation, maintenance, and testing of the backflow prevention assemblies required by this chapter. Backflow prevention assemblies shall be installed by a licensed plumbing contractor per established plumbing codes. A licensed backflow prevention testing technician, registered with the Iowa Department of Public Health, shall test the backflow prevention assembly at initial installation and annually each year thereafter. Backflow prevention assemblies installed on irrigation systems shall be tested annually by May 31 of each year. Backflow prevention assemblies must be retested when repairs have been completed to ensure the repaired device is operational.

4. The customer shall ensure the City water utility receives the backflow prevention assembly test report upon completion of testing. Failure to provide report within 15 days of the test may result in termination of water service.

93.06 BACKFLOW PREVENTION ASSEMBLY TESTING. All backflow prevention assemblies shall be tested within 10 working days of installation. The customer shall cause each backflow prevention assembly installed at their property to be tested annually by a backflow prevention assembly technician registered with the Iowa Department of Public Health. Such test shall be due on an annual testing date for such premises.

1. Backflow prevention assemblies which are in place but have not been used for more than three months, shall be tested prior to being placed back into service.

2. Any backflow prevention assembly that fails a test and is repaired or replaced, must successfully pass the test prior to being placed into operation.

3. The City requires an annual test however the City may require more frequent testing of backflow prevention assemblies.

4. The City may conduct, at its own cost, additional testing of a backflow prevention assembly to verify test procedures and results.

5. In the event a contamination of the water distribution system should occur from any home or business, that home or business shall be responsible for all costs incurred by the City to resolve said contamination.

6. To suspend the testing requirements for an irrigation system or other system taken out of service, the customer shall have a licensed plumbing contractor disconnect all piping and remove the backflow prevention assembly. When the system is to be placed back into service, the backflow prevention assembly must be re-installed by a licensed plumbing contractor and tested by the required licensed testing technician. The customer must contact the City water utility for an appointment to have the disconnection and reconnection inspected.

93.07 ADMINISTRATION AND ANNUAL TESTING.

1. An administration fee of $15.00 will be applied to the customer's account annually for each backflow prevention assembly installed at the property.

2. Any failure to have backflow devices, that are categorized as containment backflow prevention assemblies, to be tested and a report thereof to be received by the annual backflow test due date will result in the imposition of late fees as follows:

A. If successful test results of the containment backflow device located at the water meter are not received within 15 days of the test due date, a $100.00 late fee will be applied.

B. An additional $200.00 late fee will be applied to the customer's account if a report is not received within 30 days of the annual test due date, and water service may be interrupted until such a time that a successful test result is received.

93.08 TERMINATION AND NON-COMPLIANCE. Water service may be terminated in the case of non-compliance with, but not limited to, the following:

1. Refusal to allow City access to the property to inspect for cross connection at reasonably scheduled times.

2. Unauthorized removal or bypassing of a backflow prevention device required by the City.

3. Providing inadequate backflow prevention when a cross connection exists.

4. Failure to install an approved backflow prevention assembly when required by the City.

5. Failure to test a backflow prevention assembly as required by the City or submit the required test report within 30 days of the test.

6. Failure to comply with any other provisions of this chapter or reasonable requests.

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CHAPTER 95

SANITARY SEWER SYSTEM

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Public Works Director" means the Public Works Director of the City water system or any duly authorized assistant, agent, or representative.

14. "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.

15. "Sanitary sewer" means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

16. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

17. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

18. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

19. "Sewer" means a pipe or conduit for carrying sewage.

20. "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.

21. "Slug" means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

22. "Storm drain" or "storm sewer" means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.

24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 PUBLIC WORKS DIRECTOR'S DUTIES. The Public Works Director shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 90 days after date of official notice from the City to do so provided that said public sewer is located within 250 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12[3f])
(567 IAC 69.1[3])

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

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

95.07 RIGHT OF ENTRY. The Public Works Director 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 Public Works Director 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. Failure to comply with request to enter and inspect property shall result in a municipal infraction being filed against the owner of record of the property and legal action may be applicable.

95.08 USE OF EASEMENTS. The Public Works Director 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.

95.10 CHEMICAL TOILETS.

1. Prohibited. No person shall erect, install, or maintain, or cause to be erected, installed, or maintained, any portable chemical toilet on either public or private property without first obtaining a written permit to do so from the Public Works Director.

2. Application for Permit. Any person requesting a permit to erect or install a chemical toilet shall submit an application to the Public Works Director. Such application shall state the proposed location of such toilet, the period of time such toilet will be used, and the circumstances which require installation. No permit shall be issued unless the Public Works Director finds that the erection or installation of such chemical toilet is necessary to allow the applicant to comply with federal, State, or local labor or occupational safety regulations or for the purpose of providing temporary facilities for carnivals, bazaars, fairs, or other civic celebrations sponsored by a bona fide civic group, service club, or merchants group. Any permit granted pursuant to the provisions of this section shall be granted only for a period of time sufficient to allow compliance with any federal, State, or local labor or occupational safety regulation or for the period of time during which any civic celebration takes place.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the following information:

1. The location and description of the property to be connected with the sewer system.

2. The purpose for which the sewer is to be used.

3. Plans, specifications, or other information considered pertinent.

4. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 60 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. The person who makes the application shall pay a connection charge in the amount of $1,100.00, plus an additional charge of $125.00 for each unit in excess of one which is to be served by the connection, to reimburse the City for costs borne by the City in making sewer service available to the property served.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Public Works Director 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 Public Works Director, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the

building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Public Works Director before installation.

4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

A. Recommended grade at one-fourth inch per foot.

B. Minimum grade of one-eighth inch per foot.

C. Minimum velocity of two feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Public Works Director and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).

B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.

C. Ductile iron water pipe – A.W.W.A. C-151.

D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Public Works Director. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or

where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Public Works Director. 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 Public Works Director, 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 Public Works Director, 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 "WYE" branch, if such branch is available at a suitable location. If no properly located "WYE" branch is available, a saddle "TEE" shall be installed at the location specified by the Public Works Director. 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 Public Works Director and in accordance with the Public Works Director's direction if such connection is approved.

96.08 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected, and accepted as prescribed in the *International Plumbing Code*.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 STORMWATER. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Public Works Director, 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 Public Works Director where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be in the best interests of the sewer system.

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow.

   A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Public Works Director.

B. Where necessary in the opinion of the Public Works Director, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Public Works Director, 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 Public Works Director 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 Public Works Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150°F (65°C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Public Works Director 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 Public Works Director in compliance with applicable State or federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials that exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES; POWERS OF PUBLIC WORKS DIRECTOR. 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director, 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 Public Works Director. 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.)

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

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

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

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

(567 IAC 69.1[3])

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

(567 IAC 69.1[3 and 4])

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

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

(567 IAC 69.1[3])

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

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

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

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

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 40,000 square feet or 150 feet wide.

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CHAPTER 99

SEWER SERVICE CHARGES

99.01 SEWER SERVICE. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system as follows:

1. Service Availability Charge. A service availability charge of $19.74 per month (minimum bill).

2. Usage Charge. A usage charge of $13.07 per each 1,000 gallons of water used.

(Section 99.01 – Ord. 2023-9100 – Nov. 23 Supp.)

99.02 SPECIAL RATES. Where, in the judgment of the Public Works Director and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Public Works Director and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.03 IRRIGATION METERS. Any customer of the City water utility may purchase from the City and install, at the customer's sole expense, a second water meter in accordance with City plans and specifications, which water meter shall be installed in such a fashion so as to measure water used outside of the dwelling unit, and which does not drain directly into the sanitary sewer system. If the irrigation meter becomes defective the City will repair the meter and the customer shall be liable for the cost of the repair. The number of gallons measured by such meter shall not be used in determining the sewer rates herein set out.

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served, and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining

unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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

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CHAPTER 100

SEWER CONNECTION FEES

100.01 CONNECTION FEES REQUIRED. In addition to the sewer connection charge established and required under Section 96.02 of this Code of Ordinances, a sewer connection fee shall be collected in certain sanitary sewer districts in accordance with the provisions of this chapter at the time of the issuance of the permit for the connection to the public sanitary sewer by properties located within such district.

100.02 EAST SANITARY SEWER DISTRICT.

1. Description. The provisions of this section apply to the East Sanitary Sewer District, which consists of the following described real estate:

Beginning at the S ¼ corner of Section 36, Township 81 North Range 25 West of the 5th P.M.; thence easterly along the south line of said Section 36 to the SW corner of the South 374 feet of the East 60 acres thereof; thence northerly to the NW corner of the South 374 feet of the East 60 acres thereof, thence easterly to the NE corner of the South 374 feet of the East 60 acres thereof; thence along the east line of said Section 36 to a point 476.78 feet north of the SW corner of Section 31, Township 81 North, Range 24 West; thence easterly parallel with the south line of said Section 31, 595.54 feet; thence southerly parallel with the west line of said Section 31, 476.78 feet; thence easterly along the south line of said Section 31, 60.0 feet; thence northerly parallel with the west line of said Section 31, 648.25 feet; thence right 44 degrees 01 minutes 03 seconds to the previous course, 908.24 feet; thence left 43 degrees 33 minutes 33 seconds to the previous course, 1343.85 feet to a point on the north line of the SW¼ of said Section 31; thence westerly along said north line, 1297.5 feet to the W ¼ corner of said Section 31; thence continuing westerly along the north line of the South ½ of Section 36, Township 81 North, Range 25 West to the W ¼ corner of said Section 36; thence continuing westerly to a point on the north line of the SE¼ of said Section 35, 300 feet west of said east line; thence northerly perpendicular to said south line, 525 feet; thence southwesterly to a point on the west line of the SE ¼ of the NE ¼, 150 feet north of the southwest corner thereof; thence south to the southeast corner of lot 5, Section 35, Township 81 North, Range 25 West of the 5th P.M.; according to the Official Plat thereof as recorded in Plat Book B, pages 476 and 477 of the Records of Polk County, Iowa; thence west along the south line of said lot 5, 330 feet; thence north, 280 feet; thence northwesterly to the northeast corner of Lot 8 of said Official Plat; thence north along the east line of Lot 7 of said Official Plat of Section 35, a distance of 720 feet; thence east along the south line of Lot 2 of the Official Plat of Section 35, a distance of 240 feet; thence north to a point on the north line of Lot 2 of the Official Plat of Section 35, 240 feet

east of the northwest corner of said Lot 2; thence east along the north line of said Lot 2, 120 feet; thence north perpendicular to the north line of said Lot 2, 160 feet; thence west parallel to the north line of said Lot 2, 360 feet; thence south perpendicular to the north line of said Lot 2, 160 feet; thence west along the north lot line of Lot 7 of said Official Plat of Section 35, to the northwest corner of said Lot 7; thence south along the west line of said Lot 7 to the northeast corner of Lot 10 of said Official Plat; thence west along the north line of Lots 10 and 12 of said Official Plat, to the northwest corner of lot 12; thence south along the west line of said Lot 12 to a point lying on the west line of said Lot 12, said point being the extension of the north line of Lot 14 of said Official Plat; thence west along the extension of the north line of said Lot 14, and along the north line of said Lot 14, to a point lying on the north line of said Lot 14, 280 feet east of the northwest corner of said Lot 14; thence south to a point lying on the north line of Lot 16 of said Official Plat, 280 feet east of the northwest corner of said Lot 16; thence southwesterly to a point lying 450 feet north and 225 feet east of the southwest corner of the SW ¼ of the NW ¼ of said Section 35; thence westerly, 225 feet to the west line of said Section 35; thence south along the west line of said Section 35, to a point lying 239 feet north of the north right-of-way line of Jester Park Drive (County Road V), said point also being on the north line of Chandler Heights an Official Plat; thence easterly along said north line and extension thereof to the centerline of Jester Park Drive (County Road V); thence northeasterly along said centerline to the centerline of NW Madrid Drive; thence southeasterly along said centerline to a point on the south line of said Section 35; thence continuing southeasterly along the centerline of NW Madrid Drive (Broadway) to the centerline of Forest Street; thence northeasterly along the extension of said centerline 247.5 feet; thence southeasterly 247.5 feet perpendicularly distant from and parallel to the centerline of Broadway to a point on the north line of Gemricher Acres, an Official Plat; thence easterly along said plat line to the SW corner of Outlot "X" of said Gemricher Acres; thence northerly along said plat line to the NW corner of Outlot "X" of said Gemricher Acres; thence southeasterly along said plat line and extension thereof along the northeasterly line of Blocks 3 and 4, Original Town to the centerline of Third Street; thence southwesterly to the extension of the centerline of the vacated Northwest-Southeast alley of Block 2, Original Town; thence southeasterly along said centerline to the centerline of the vacated Northeast-Southwest alley of Block 2, Original Town; thence southwesterly along said centerline to the centerline of Walnut Street; thence southeasterly along said centerline to the centerline of First Street; thence southwesterly along said centerline to a point 132 feet northeast of the northeasterly right-of-way line of Broadway; thence southeasterly parallel with and 132 feet perpendicularly distant from said northeasterly right-of-way line of Broadway to a point 500 feet perpendicularly distant from the east line of the NW ¼ of Section 1, Township 80 North, Range 25 West; thence southerly parallel to and 500 feet perpendicularly distant from said east line of the NW¼ of Section 1 to a point on the south line of said NW¼; thence continuing southerly parallel to and 500 feet perpendicularly distant from the east

line of the SW¼ of said Section 1, 1000 feet; thence easterly parallel to the north line of said SW ¼ of Section 1 to the east line thereof; thence northerly along said east line of the SW¼ of Section 1 to the center of said Section 1; thence continuing northerly along the east line of the NW¼ of said Section 1 to the point of beginning.

2. Sewer Capacity. The trunk line sewer constructed in the East Sanitary Sewer District is designed to accommodate a future average density of seven dwelling units per acre. The maximum density permitted for any specific parcel of land shall be determined by multiplying the total acres owned by the applicant within the parcel by the number seven. When determined, this number shall constitute the maximum number of dwelling units which shall be permitted within such parcel. No connection permits shall be issued to serve a density in excess of that which is permitted under the provisions of this section.

3. Determination of Parcel Size. Any person making application for a sewer connection permit within the East Sanitary Sewer District shall provide the City with the following information:

A. The legal description of the entire parcel owned by the applicant, hereafter referred to as the "original parcel;"

B. The name of the titleholder;

C. The number of acres in said parcel;

D. The dimensions of said parcel; and

E. The number of existing dwelling units within such parcel.

1. Upon receipt of such application, the Engineer shall determine the maximum number of dwelling units permissible within such original parcel, under the provisions of Subsection 2 of this section. Upon receipt of each subsequent application, the Engineer shall reduce the number of allowable connections by the number of connections previously permitted in such original parcel.

4. Integrity of Parcel Size. The size and average density per parcel of land as provided in Subsection 2 shall be fixed as of the date of the original application for a sewer permit. A copy of the original parcel description; size and dimension of such parcel, and the number of connections previously permitted shall be kept on file in the office of the City Clerk and Engineer and shall be made available for public inspection during regular business hours. No conveyance or assignment of any part of the original parcel shall serve to alter or increase the maximum number of connections which may be permitted within such original parcel. Provided, in the event such parcel is subdivided, the titleholder may, through agreement with the purchaser, reserve to himself or herself a greater or lesser density by restricting or increasing the allowable density of the property to be conveyed. No such agreement shall increase the average number of units allowed under Subsection 2 for such original parcel. Any such agreement must be in writing and recorded as a covenant running with the land. A copy of any such agreement, showing its recordation, shall be filed with the Clerk and Engineer and shall be kept on file in their respective offices. In the absence of such an agreement, the allowable sewer connections remaining for such original parcel shall be allocated to any owner of any part of such parcel who shall first request the same.

100.03 ESTABLISHMENT OF SEWER DISTRICTS.

1. Central Sanitary Sewer District. The Central Sanitary Sewer District consists of the following described real estate:

Beginning at the South ¼ corner of Section 35, Township 81 North, Range 25 West of the 5th P.M., City of Polk City, Polk County, Iowa, said point also being the northwest corner of Forest Heights Plat No. 3, an Official Plat to the City of Polk City; thence west, along the south line of said Section 35, 291.64 feet; thence northeasterly along the westerly line of the North Polk Community School District Property, 750.99 feet to the centerline of N.W. Madrid Drive (Broadway); thence southeasterly along said centerline to a point on the south line of said Section 35; thence continuing southeasterly along the centerline of N.W. Madrid Drive to the centerline of Forest Street; thence northeasterly along the extension of said centerline 247.5 feet; thence southeasterly along a line being 247.5 feet perpendicularly distant from and parallel with the centerline of Broadway to a point on the north line of Gemricher Acres an Official Plat; thence easterly along said plat line to the southwest corner of Outlot "X" of said Gemricher Acres; thence northerly along said plat line to the northwest corner of Outlot "X" of said Gemricher Acres; thence southeasterly along said plat line and extension thereof and along the northeasterly line of Blocks 3 and 4, Original Town to the centerline of Third Street; thence southwesterly along said centerline to the extension of the centerline of the vacated northwest-southeast alley of Block 2, Original Town; thence southeasterly along said centerline to the centerline of the vacated northeast-southwest alley of Block 2, Original Town; thence southwesterly along said centerline to the centerline of Walnut Street; thence southeasterly along said centerline to the centerline of First Street; thence southwesterly along said centerline to a point 132 feet northeast of the northeasterly right-of-way line of Broadway; thence southeasterly along a line being parallel with and 132 feet perpendicularly distant from said northeasterly right-of-way line of Broadway to a point 500 feet perpendicularly distant from the east line of the NW¼ of Section 1, Township 80 North, Range 25 West; thence southerly along a line being parallel with and 500 feet perpendicularly distant from said east line of the NW¼ of Section 1 to a point on the south line of said NW¼; thence continuing southerly parallel with and 500 feet perpendicularly distant from the east line of the SW¼ of said Section 1, 1000 feet; thence northwesterly to the southerly corner of Des Moines' Addition to Polk City; thence northwesterly along the southwesterly line of said Des Moines Addition and extension thereof to the north line of the SW¼ of said Section 1; thence west along said north line to a point being 236.6 feet east of the west line of said Section 1; thence south parallel to and 236.6 feet perpendicularly distant from said west line of Section 1, 130.3 feet; thence west 27.6 feet; thence south 209 feet; thence west 209 feet to the west line of said Section 1, said point being 339.3 feet south of the West ¼ corner of said Section 1; thence north along said west line of Section 1, 70.6 feet; thence west 450 feet to a point being 268.7 feet south of the north line of the SE¼ of Section 2, Township 80 North, Range 25 West; thence north 78.7 feet to the

southeast corner of Lot 1, Southwest Gate Estates Plat 1, An Official Plat; thence west along the south line of said Southwest Gate Estates Plat 1, 751.2 feet to the west line of Tyler Street; thence north along said west line of Tyler Street, 130 feet to the south right-of-way of Davis Street; thence west to the west right-of-way of Roosevelt Street; thence north along the said west line of Roosevelt Street to the southeast corner of Lot 23, Lakeview Acres Plat 1, an Official Plat; thence northwesterly to the southwest corner of said Lot 23; thence north to the northwest corner of Lot 22 said Lakeview Acres Plat 1; thence west to the southwest corner of Lot 20 said Lakeview Acres Plat 1, thence northwesterly to the southwesterly corner of Lot 16 said Lakeview Acres Plat 1; thence northwesterly to the southwest corner of Lot 37 Lakeview Acres Plat 2, an Official Plat; thence west to the southwest corner of said Lakeview Acres Plat 2; thence north to the northwest corner of said Lakeview Acres Plat 2; thence east to the southwest corner of Forest Heights Plat 4, an Official Plat; thence north to the southeast corner of Lot 27 said Forest Heights Plat 4; thence west to the southwest corner of Lot 23 said Forest Heights Plat 4; thence north to the northwest corner of Lot 18, Forest Heights Plat 3, an Official Plat, said point being the point of beginning.

2. Independent Sanitary Sewer District. The Independent Sanitary Sewer District consists of the following described real estate:

Beginning at the SW corner of Section 35, Township 81 North, Range 25 West of the 5th P.M., City of Polk City, Polk County, Iowa; thence east along the south line of said Section 35, 1071.35 feet; thence north 972.19 feet to the southerly right-of-way of NW Jester Park Drive; thence westerly to a point on the west line of said Section 35, said point being 239 feet north of the northerly right-of-way line of said NW Jester Park Drive; thence westerly 108 feet; thence southwesterly, 292 feet; thence southerly to the northerly right-of-way line of said NW Jester Park Drive; thence northeasterly; 308 feet to said west line of Section 35; thence south along said west line of Section 35 to the point of beginning.

100.04 EAST SOUTHSIDE DRIVE SEWER CONNECTION DISTRICT.

1. For the purposes of this section the following terms have the following meanings:

A. "East Southside Drive Sewer Project" means the sanitary sewer installed along East Southside Drive as shown on "Exhibit A", said exhibit to be placed on file in the office of the City Clerk.

B. "East Southside Drive Sewer Connection District" means and includes only the following described real estate and as shown on "Exhibit B", said exhibit to be placed on file in the office of the City Clerk.

2. Connections shall be made to the East Southside Drive Sewer Project for the purpose of providing sanitary sewer service to any property only on the conditions set forth in Subsection 3 below.

3. The right to make connections to the East Southside Drive Sewer Project shall be subject to the following conditions:

A. The proposed schedule of future connection fees, to be paid at the time of final platting in the case of new development or at the time of connection in the case of existing homes, is as follows:

(1) Lot 2, Red Cedar Prairie Plat 1 (existing home); connection fee = $12,470.00

(2) Lot 3, Red Cedar Prairie Plat 1 (existing home); connection fee = $12,470.00

(3) Lot 3 Red Cedar Prairie Plat 1 (new development); connection fee = $99,760.00

B. Such connection fee is in lieu of, and not in addition to, the fee set forth in Section 96.02.

C. In addition to the fee set forth in Subsections 3A and 3B above, the owner of the parcel to be serviced by the connection that is not within the corporate limits at that time shall file with the City an Application for Annexation, said application to be in a form as provided by the City and subsequently acted upon by the City Council.

D. The owner of any parcel making a connection to the East Southside Drive Sewer Project, as authorized and permitted hereunder, shall be solely responsible for the cost of making such connection. Such connection shall be designed and installed in complete accordance with all applicable City ordinances, rules and regulations.

4. In the event any parcel within the East Southside Drive Connection District is developed for industrial or commercial use, or is subdivided and additional structures are permitted thereon, the owner or developer of the parcel shall be required to pay the fee for the right to make connections to the East Southside Drive Sewer or extensions of sewer mains connected to the East Southside Drive Sewer as necessary for their development. The fee will be paid prior to the connection, in the case of service connections to industrial or commercial buildings, or prior to City approval of construction contracts for a sewer main extension to serve a subdivision.

5. Nothing in this section is intended to preclude future further extensions, by the City or upon approval of the City, of the East Southside Drive Sewer or sewer mains connected to the East Southside Drive Sewer for the purpose of providing sanitary sewer service to property other than established parcels included in the East Southside Drive Sewer Connection District. It is the intent of this section that, whether or not the East Southside Drive Sewer is hereafter further extended, no connections shall be made to that East Southside Drive Sewer Project or extension except as provided for hereunder.

6. All owners who propose to connect such properties directly or indirectly to the East Southside Drive Sewer Project, shall make application to the City for such connection. The submittal of construction plans to the City for sanitary sewer improvements on property being subdivided for development shall constitute an application to the City for purposes of this section. The sewer connection fee shall be due and payable prior to the time such application is approved.

7. The sewer connection fee shall be in an amount equal to the maximum acre area of contiguous property, or fraction thereof, within the benefited district under common ownership which can be lawfully served through such proposed connection, multiplied by the per acre connection fee or such other fee basis as determined for the benefited district established in this chapter for the East Southside Drive Sewer Connection District. The connection fee shall be a graduated connection fee, with annual interest adjustments, such that property owners who connect in later years pay interest on the connection fee for their property. The rate of interest applicable to the connection fee established in this district shall be the rate not exceeding the rate of interest applicable to special assessments pursuant to the *Code of Iowa* in effect on the date this connection fee is established.

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CHAPTER 101

REGULATION OF INDUSTRIAL WASTEWATER, COMMERCIAL WASTEWATER, AND HAULED WASTE

DIVISION 1: GENERAL PROVISIONS REGARDING INDUSTRIAL WASTE

101.01 DEFINITIONS. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

1. "Act" or "Clean Water Act" means the 1972 Federal Water Pollution Control Act, the 1977 Clean Water Act, and the 1987 Water Quality Act, as amended.

2. "Approval authority" means the Iowa Department of Natural Resources.

3. "Authorized representative" means:

   A. An executive officer of a corporation.

   B. A general partner of a partnership.

   C. The proprietor of a proprietorship.

   D. The conservator, trustee, attorney in fact, receiver, or other person or agent authorized in law and in fact to act on behalf of users which are not corporations, partnerships, or proprietorships or on behalf of other entities which must legally act through an agent.

   E. Any other authorized representative of a person or entity identified in Subsections A through D of this definition, if the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company and the written authorization is submitted to the director.

   F. Any other person authorized by law to act on behalf of any entity.

4. "Baseline monitoring report" means the report required by 40 CFR 403.12(b)(1-7).

5. "Biochemical oxygen demand" or "BOD" means the analysis of BOD as described in Environmental Protection Agency methods.

6. "Building drain" means that part of the lowest horizontal piping of a drainage system that receives the discharge from waste and other drainage pipes inside the wall of the building and conveys it to the building sewer, beginning three feet outside the building wall.

7. "Building sewer" or "lateral sewer" means the sewer extending from the building drain to the connection with the POTW.

8. "Bypass" means the intentional diversion of waste streams from any portion of an industrial user's pretreatment facility.

9. "Carbonaceous biochemical oxygen demand" or "CBOD" means the analysis of BOD as described in Environmental Protection Agency methods while inhibiting the nitrogenous oxygen demand.

10. "Categorical user" means a user subject to National Categorical Pretreatment Standards.

11. "Chemical oxygen demand" or "COD" means the measurement of the susceptibility of a sample to oxidation by a strong chemical oxidant expressed in milligrams per liter (mg/l) and using Environmental Protection Agency methods.

12. "City" means the political subdivision known as the City of Polk City, Iowa, and also means the territory within the corporate boundaries of the City of Polk City.

13. "City sanitary sewer system" or "sanitary sewer system" means the local outfall sewers, trunk sewers, pumping stations, force mains, and wastewater equalization basins, and all other structures, devices, and appliances appurtenant thereto, which are used for collecting, conveying, or storing wastewater and which serve and are owned, operated and maintained by the City or by a sanitary district serving the City.

14. "Combined waste stream formula" means the formula as found in 40 CFR 403.6(e).

15. "Composite sample" means a representative sample using a minimum of three grab sample aliquots obtained over a period of time and mixed using either a flow proportional or time proportional method.

16. "Conventional pollutant" means BOD, COD, O&G, suspended solids, pH, ammonia nitrogen, total Kjeldahl nitrogen, and fecal coliform bacteria.

17. "County" means the political subdivision known as Polk County, and also means the territory within the boundaries of Polk County.

18. "County sanitary sewer system" or "sanitary sewer system" means the local outfall sewers, trunk sewers, pumping stations, force mains and wastewater equalization basins, and all other structures, devices, and appliances appurtenant thereto, which are used for collecting, conveying, or storing wastewater and which serve and are owned, operated, and maintained by the County or by a sanitary district serving the County.

19. "Discharge" or "indirect discharge" means the introduction of treated or untreated wastewater into the POTW.

20. "Dissolved solids" means the concentration of residue left in an evaporating dish after evaporation and drying at defined temperatures using Environmental Protection Agency methods or standard methods.

21. "Domestic wastewater" means all household-type waste discharged from places of human habitation, including toilet, bath, kitchen, and laundry wastewater. Domestic wastewater is further defined as waste which does not exceed daily maximum limits of 300 mg/l COD, 200 mg/l BOD, 250 mg/l suspended solids, 100 mg/l oil & grease, 30 mg/l TKN, and 15 mg/l NH3-N at a discharge rate of 100 gallons per capita per day. This loading is equal to 0.25 pound of COD, 0.17 pound of BOD, 0.20 pound of suspended solids, 0.083 pound of oil and grease, 0.025 pound of TKN, and 0.013 pound of NH3-N per capita per day.

22. "Domestic user" means a person discharging only domestic wastewater to the POTW, which wastewater is discharged from any building or parts of a building designed for or occupied by one or more persons as a single housekeeping unit, including such units within multi-family dwellings and apartment buildings, which building or premises is a source of wastewater discharge into a POTW.

23. "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency.

24. "Environmental Protection Agency methods" means standard procedures for wastewater analysis approved by the U.S. Environmental Protection Agency and prescribed in 40 CFR 136, and includes alternate methods approved by the approval authority.

25. "E. coli" or "Escherichia coli" means bacteria that are a member of the fecal coliform group and whose presence indicates fecal contamination in water.

26. "Fecal coliform" means bacteria common to the intestinal tracts of humans and animals whose presence in water is an indication of pollution.

27. "Fat, oil, and grease" or "oil and grease" or "FOG" means those substances which are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

28. "Garbage" means solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the commercial handling, storage, and sale of produce.

29. "Grab sample" means a single aliquot sample collected either directly or by means of a mechanical device.

30. "Headworks" means the main wet well at the WRF prior to any treatment process.

31. "Industrial user" means a person whose property, building, or premises is a source of wastewater discharge into the POTW, other than a domestic user.

32. "Industrial waste" means the liquid waste from industrial users as distinct from domestic sewage.

33. "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, which both:

A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes use or disposal; and

B. Causes a violation of any requirement of the WRA's National Pollutant Discharge Elimination System permit (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or disposal in compliance with any federal, State, or local regulations or permits.

34. "Limit" means the maximum allowable discharge of a given pollutant as in the following definitions:

A. Daily maximum limit or daily instantaneous maximum limit means the maximum allowable discharge of pollutant as measured at any time during a calendar day, expressed as either a concentration limit or a daily mass limit. It is a violation if the concentration limit on any single sample taken exceeds that discharge limits in the discharge permit for the user, or the discharge limits set forth in Section 101.11.

B. Monthly average limit means the maximum allowable value for the average of all measurements of a pollutant obtained during one calendar month.

35. "National Categorical Pretreatment Standards" or "NCPS" or "categorical standards" means any limitations on pollutant discharges to POTW promulgated by the

U.S. Environmental Protection Agency that apply to specified process wastewater of particular industrial categories.

36. "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to the Act.

37. "New source" means a source as defined by 40 CFR 403.3(k).

38. "Nonconventional pollutants" means all pollutants which are not included in the definition of conventional pollutants.

39. 38A."Non-Significant Categorical Industrial User (NSCIU)" is a categorical user which never discharges more than 100 gallons per day of total categorical wastewater, as defined in 40 CFR 403.3(v)(2). ***(Ord. 2022-2100 – Feb. 23 Supp.)***

40. "NH3-N" means the ammonia nitrogen concentration in mg/l as determined using Environmental Protection Agency methods.

41. "O&M" means operation and maintenance.

42. "Pass through" means a discharge which exits the POTW into water of the State in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the WRA's National Pollutant Discharge Elimination System permit, including an increase in the magnitude or duration of a violation, or other permit issued to the WRA by the Iowa Department of Natural Resources or the U.S. Environmental Protection Agency.

43. "Person" means any individual, partnership, co-partnership, firm, company, association, joint stock company, society, corporation trust, estate, municipality, governmental entity, group, or any other legal entity, or their legal representatives, agents, or assigns.

44. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

45. "Pollution" means the alteration of chemical, physical, biological, or radiological integrity of water as a result of human activity or enterprise.

46. "POTW treatment plant" means that portion of the publicly owned treatment works which is designed to provide treatment, including recycling and reclamation, of municipal sewage and industrial waste.

47. "Pretreatment" means the reduction, elimination, or alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW.

48. "Pretreatment facility" means the equipment used to accomplish pretreatment.

49. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment standards, imposed on an industrial user.

50. "Pretreatment standards" means, for any specified pollutant, the prohibitive discharge standards as set forth in Section 101.10 of this chapter, the specific limitations on discharge as set forth in Section 101.11 of this chapter, the State pretreatment standards, or the National Categorical Pretreatment Standards, whichever standard is most stringent.

51. "Properly shredded garbage" means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles are

carried freely under the flow conditions normally prevailing in the POTW, with no particle greater than one-half inch in any dimension.

52. "Publicly-owned treatment works" or "POTW" means and includes "POTW" treatment works as defined by Section 212 of the Act, and which is owned by the Des Moines Metropolitan Wastewater Reclamation Authority or any of Participating Communities that make up the WRA. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances if they convey wastewater to a POTW treatment plant.

53. "Sampling chamber" or "sampling maintenance hole" means a device or structure suitable and appropriate to permit sampling and flow measurement of a wastewater stream to determine compliance with this chapter.

54. "Severe property damage" means substantial physical damage to property, damage to a pretreatment facility causing it to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

55. "Sewage" means and includes wastewater as herein defined.

56. "Sewage system" means sewers, intercepting sewers, pipes or conduits, pumping stations, force mains, and all other constructions, devices and appliances appurtenant thereto used for collecting or conducting sewage to a point of treatment or ultimate disposal.

57. "Significant user" means:

A. All categorical users.

B. All industrial users that:

(1) Discharge 25,000 gallons per day or more of process wastewater (excludes sanitary, non-contact cooling, and boiler blowdown wastewater);

(2) Contribute a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the WRF; or

(3) Contribute a discharge that has a reasonable potential, in the opinion of the director, to adversely affect the POTW treatment plant by causing interference or pass through.

58. "Sludge" means the solids separated from the liquids during the wastewater treatment process.

59. "Slug" or "slug load" means any discharge of water or wastewater which, in concentration of any pollutant, measured using a grab or composite sample, is more than five times the allowable concentration as set forth in Sections 101.10 and 101.11 of this chapter or in a user's most recent wastewater discharge permit or which exceeds a slug concentration level specified in a wastewater discharge permit. A discharge with pH outside the allowable range by more than one standard unit (S.U.) shall also be considered a slug.

60. "Standard industrial classification" or "SIC" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, most recent edition.

61. "Standard Methods" means the laboratory procedures set forth in the latest USEPA approved edition of *Standard Methods for the Examination of Wastewater* prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

62. "Storm sewer" means a sewer which carries stormwater, surface water and drainage but excludes sewage and industrial waste other than unpolluted cooling water.

63. "T", when used as a portion of a chemical name, means "total" such as in "cyanide-T" where "T" means "total" cyanide.

64. "TKN" means the Total Kjeldahl Nitrogen concentration expressed in mg/l as determined using Environmental Protection Agency methods or Standard Methods.

65. "Total metal" means the sum total of the suspended and dissolved concentrations of a metal specified in a wastewater discharge permit or as specified in Section 101.11 hereof.

66. "Total suspended solids" or "TSS" means the portion of total solids retained by a filter using Environmental Protection Agency methods or Standard Methods.

67. "Total toxic organics" or "TTO" means the summation of all quantified values greater than 0.01 milligram per liter for the toxic organics as specified in the applicable regulation.

68. "Toxic pollutant" means any pollutant or combination of pollutants listed in 40 CFR 403, Appendix B.

69. "Unpolluted water" means water containing none of the following: free or emulsified oil and grease; substances that may impart taste, odor or color characteristics; volatile, explosive, toxic or poisonous substances in suspension or solution; explosive, odorous or otherwise obnoxious gases. Such water shall not contain more than 25 mg/l of suspended solids, and not more than 25 mg/l of BOD.

70. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed pretreatment facilities, inadequate pretreatment facilities, lack of preventive maintenance, or careless or improper operation.

71. "User" means a person discharging anything other than domestic wastewater into the POTW, and includes categorical users as herein defined.

72. "Waste hauler" means a private contractor licensed by the WRA to deliver wastewater to the WRF or other locations approved by the WRA director, and includes all persons required to have a license under Section 101.69 of this chapter.

(Subsection 71 – Ord. 2022-2100 – Feb. 23 Supp.)

73. "Wastewater" means and includes sewage as defined in federal law and regulation, or a combination of the liquid and water-carried waste from residences, commercial buildings, institutions and industrial establishments, together with such groundwater, surface water, and stormwater as may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

74. "Wastewater discharge permit" means the document issued to a user by the WRA in accordance with the terms of this chapter which permits such user to discharge wastewater to the POTW.

75. 73A."Waste generator" means any person which hauls or has hauled on its behalf wastewater it generates to the WRF. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

76. "Water of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.

77. "WRA" or "wastewater reclamation authority" means the Des Moines Metropolitan Wastewater Reclamation Authority, an entity organized and existing under Chapters 28E and 28F of the *Code of Iowa*, and established pursuant to the WRA Agreement. The term "WRA" means and includes the representatives of the Participating Communities on the WRA Board, and the officers and employees of the WRA.

78. "WRA agreement" means the Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority, approved and executed by the WRA and its Participating Communities and effective as of July 1, 2004.

79. "WRA director" or "director" means the person appointed by the WRA Board, or by the WRA operating contractor upon consultation with the Board, as provided in Section 2.63 of the WRA operating contract, who is charged with the administration and management of the WRA system and of the provision of all services outlined in operating contract. Unless otherwise indicated in the text, the director shall mean and include the person acting as the director's authorized designee in the director's absence in carrying out the director's duties under this Chapter.

80. "WRA operating contractor" or "operating contractor" means the City of Des Moines, pursuant to the Initial Operating Contractor executed by the City of Des Moines and the WRA Board on and as of July 1, 2004, or such successor operating contractor as the WRA shall contract with to provide operation and management services to the WRA

81. "WRA participating community" or "WRA participating communities" means, individually or collectively, depending on context, the cities of Altoona, Ankeny, Bondurant, Clive, Cumming, Des Moines, Grimes, Johnston, Norwalk, Polk City, Pleasant Hill, Waukee and West Des Moines, and Polk County, Warren County, the Urbandale Sanitary Sewer District, the Urbandale-Windsor Heights Sanitary District and the Greenfield Plaza/Hills of Coventry Sanitary District, together with any other cities, counties or sanitary districts that become participating communities under the provisions of the WRA agreement. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

82. "WRA wastewater collection and conveyance system" or "WCCS" means the WRA sanitary sewer interceptors and extensions to same, detention basins, equalization basins, storage facilities, pumping stations, force mains and all related property and improvements.

83. "WRA wastewater reclamation facility" or "WRF" means the wastewater treatment plant located generally at 3000 Vandalia Road, Des Moines, Iowa, as the same

may be expanded or improved in the future, and any other wastewater treatment plants hereafter acquired or constructed and operated by the WRA.

84. "WRA system" means and includes the WRF, the WCCS, satellite wastewater and CSO treatment facilities hereafter constructed, all real and personal property of every nature hereinafter owned by the WRA and comprising part of or used as a part of the WRA system, and all appurtenances, contracts, leases, franchises and other intangibles of the WRA.

101.02 ABBREVIATIONS. The following abbreviations, when used in this chapter, shall have the designated meanings:

BETX	Benzene, ethylbenzene, toluene, and xylenes (total)
BOD	Biochemical oxygen demand
BMR	Baseline monitoring report
C	Celsius
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
F	Fahrenheit
FOG	Fat, oil, and grease
GPD	Gallons per day
IDNR	Iowa Department of Natural Resources
lb/day	Pounds per day
mgd	Million gallons per day
mg/l	Milligrams per liter
NCPS	National Categorical Pretreatment Standards or categorical standards
NH3-N	Ammonia nitrogen
NPDES	National Pollutant Discharge Elimination System
O&G	Oil and grease
POTW	Publicly owned treatment works
SCP	Spill control plan
SIC	Standard industrial classification
SNC	Significant noncompliance
RCRA	Resource Conservation and Recovery Act
TCLP	Toxicity characteristic leaching procedure
TFE	Trichlorotrifluoroethane
TKN	Total Kjeldahl nitrogen
TOH	Total organic hydrocarbons
TRC	Technical review criteria
TSS	Total suspended solids
TTO	Total toxic organics
USC	United States Code
U.S. EPA	United States Environmental Protection Agency
VPH	Volatile petroleum hydrocarbons

101.03 GENERAL ADOPTION. The provisions of this chapter are enacted to aid in the enforcement of the pretreatment regulations set forth in this chapter and may be placed in a separate portion of the code of any WRA participating community which adopts these

provisions. Each WRA participating community by enacting this chapter designates the WRA and its operating contractor as the enforcement agency under this chapter. Employees, agents and officers of the WRA and of its operating contractor, while acting to enforce this chapter for the WRA, are empowered to make such inspections, issue such orders or permits and take such actions within the boundaries of the City as are authorized by this chapter. The WRA or its operating contractor is also authorized to impose and collect all fees or penalties authorized by this chapter, and are authorized to directly bill and collect from contributors penalties, fees, charges and surcharges from all users within the City. A user's failure to pay any fee, charge, penalty, or surcharge is a municipal infraction and shall also be grounds to discontinue sewer service to the user, all as hereafter more particularly provided. The enforcement of this chapter in the City is not dependent upon passage of this chapter or a similar ordinance by other WRA participating communities.

101.04 INTENT AND CONSTRUCTION. This chapter seeks to implement provisions of the Act, the general pretreatment regulations found at 40 CFR, Part 403, and the *Iowa Administrative Code* Chapter 567, Sections 62.4 and 62.8. This chapter is to be construed and applied in accordance with the *Clean Water Act* amendments, the general pretreatment regulations, the *Iowa Administrative Code*, and the purpose and policy provision set forth in Section 101.05 of this division.

101.05 PURPOSE AND POLICY. This chapter regulates the use of sanitary sewers; private wastewater disposal; the installation and connection of building sewers; and the discharge of wastewater or waste into the POTW. This chapter sets forth uniform requirements for discharges into the POTW, and the deposit of wastewater and waste hauled to the WRF or to other locations approved by the WRA director for disposal and treatment. The objectives of this chapter are to:

1. To prevent the introduction of pollutants into the POTW that may interfere with the operation of the system or interfere with sludge management and disposal.

2. Prevent the introduction of pollutants into the POTW that may pass through the system inadequately treated and ultimately into receiving water, the atmosphere, or otherwise be incompatible with the system.

3. Protect workers' safety and health and protect against damage to the POTW.

4. Provide for equitable distribution of treatment and industrial pretreatment costs resulting from pollutants introduced into the POTW.

101.06 JURISDICTION. The sections of this chapter are applicable in their entirety to all users who contribute wastewater, directly or indirectly, into the POTW without regard to whether the physical facilities of such users are situated within or outside the limits of the City.

101.07 SEVERABILITY. If any provision of this chapter or the application thereof to any particular person or particular circumstance is held invalid, the invalidity shall not affect other provisions or application of this chapter which can be given effect without the invalid provision or application. To this end the provisions of this chapter are severable.

101.08 INTERPRETATION. This chapter shall be construed and interpreted to conform with 40 CFR I, and it is the intent of this chapter that it comply with the federal regulations.

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DIVISION 2: WASTEWATER TREATMENT AND PRETREATMENT

101.09 USER REQUIREMENTS.

1. The following requirements shall apply to all users of the POTW:

   A. All users shall promptly notify the WRA director in advance of any substantial change in the volume or character of pollutants in their discharge.

   B. New or increased contributions of pollutants or changes in the nature of pollutant discharged to the POTW shall require prior approval by the WRA Director.

   C. Industrial users shall notify the WRA director, the Environmental Protection Agency Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. The notification shall comply with the requirements set forth in 40 CFR 403.12(p).

   D. Discharge of any pollutants without the notice and approval required by this section is prohibited. Upon the receipt of notice required by this section, the WRA director shall within 180 days or less approve the discharge if he or she finds the proposed discharge meets applicable pretreatment standards and requirements and would not cause the WRA to violate its National Pollutant Discharge Elimination System permit. The WRA director shall deny permission for the discharge if he or she finds applicable pretreatment standards and requirements are not met or the discharge would cause a violation of the National Pollutant Discharge Elimination System permit for the WRF. In lieu of denial of permission for discharge, the WRA director may allow such discharge or contribution upon conditions which would not violate applicable pretreatment standards or requirements and would not cause a violation of the National Pollutant Discharge Elimination System permit for the WRF.

   E. Food Service Establishments shall be regulated first under Division 5 of this chapter but may be required to obtain a wastewater discharge permit and be subject to the requirements of Divisions 1 through 4 of this chapter if the WRA Director determines that additional pretreatment is required in order to comply with fat, oil, and grease discharge limits.

2. Any part of this section notwithstanding, upon receipt of the notice required by this section, the WRA director may require, in addition to the requirements of this section, that an industrial user obtain a permit under this chapter.

3. Users who are determined to be industrial users as herein defined and who refuse to apply for or obtain a wastewater discharge permit shall be subject to termination of sewer services as provided in Section 101.44 hereof.

101.10 DISCHARGE PROHIBITIONS. The following general prohibitions shall apply to all users of the POTW unless the user is subject to a more restrictive National Categorical

Pretreatment Standards, the Iowa Department of Natural Resources, or wastewater discharge permit limit. The following substances are prohibited from discharge to the POTW:

1. Pollutants creating a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140°F (60°C) using test methods referenced in 40 CFR 261.21. Waste streams shall not be ignitable at ambient temperatures. At no time shall two successive readings on a meter capable of reading L.E.L. (lower explosive limit) at the nearest accessible point to the POTW, at the point of discharge into the POTW or at any point in the POTW, be more than five percent nor any single reading greater than 10 percent.

2. Any substance which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 or greater than 12.0.

3. Solid or viscous pollutants which will cause obstruction to the flow in the POTW resulting in interference. Such pollutants include but are not limited to grease, garbage with particles greater than one-half inch any dimension, animal tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, wipes, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing waste, or tumbling and de-burring stones, and wastewater containing fat, wax, O&G, or other substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C).

4. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate or pollutant concentration which will cause interference or pass through at the WRF or which constitutes a slug load as defined in this chapter.

5. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater or vapor having a temperature higher than 150°F (65°C) at the point of introduction into the POTW, and in no case wastewater or vapor which alone or in concert with other discharges produces a temperature at the WRF greater than 104°F (40°C).

6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems or a public nuisance.

8. Any trucked or hauled pollutants, except at discharge points designated by the WRA.

9. Any radioactive material as defined in the *Atomic Energy Act of 1954*, as amended, and as defined in I.C. §136C.1, except materials which meet conditions of disposal by release into sanitary sewage pursuant to 10 CFR 20.2003.

(Subsection 9 – Ord. 2022-2100 – Feb. 23 Supp.)

10. Any wastewater containing concentrations of inert suspended solids, such as but not limited to fuller's earth, lime slurries, and lime residues, or of dissolved solids, such as but not limited to, sodium chloride and sodium sulfate, which exceed 3,000 mg/l nonvolatile or 3,000 mg/l total dissolved solids unless approved by the WRA director.

11. Pollutants causing excessive discoloration, such as but not limited to dye waste and vegetable tanning solutions.

12. Hazardous waste pharmaceuticals for human or animal use as defined in 40 CFR 266.500. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

101.11 LOCAL LIMITS FOR SPECIFIC POLLUTANTS.

1. Generally. Local limits for specific pollutants discharged pursuant to this chapter shall be as follows:

A. Dilution. Dilution of the discharge from a pretreatment facility or from a regulated process is prohibited as a method for treatment of wastes in order to meet the limits set forth in this chapter.

B. Sample Location. Measurement of pollutant concentrations to determine compliance shall be made at the point immediately following the pretreatment facility and before mixture with other waters, unless another point is designated by the WRA director. If necessary, the concentrations so measured shall be recomputed to exclude the effect of any dilution that is improper using the combined waste stream formula.

2. Headworks Limits; Average Mass. The average composite loading of all industrial users contributing the following specific pollutants to the POTW shall not exceed the allowable total pounds. The allocation of pollutants between industrial and nonindustrial sources may be adjusted by the director provided that the allowable total loading for any pollutant at the headworks of the WRF is not exceeded.

30-Day Average Allowable Pounds/Day		
Pollutant	Total	Industrial
BOD	195,600	135,153
TSS	300,400	208,463
NH3	13,000	6,959
TKN	27,760	16,950

	Maximum Allowable Headworks Loading Pounds/Day	**Maximum Allowable Industrial Loading Pounds/Day**
Pollutant	Total	Industrial
Arsenic-T	7.58	3.81
Cadmium-T	3.65	2.16
Chromium-T	136.35	120.90
Copper-T	148.56	125.51
Cyanide-T	17.08	8.28
Lead-T	28.17	20.94
Mercury-T	0.999	0.747
Nickel-T	87.27	75.75
Silver-T	23.30	19.77
Zinc-T	360.59	283.53

3. Discharge concentration limits and review criteria. Discharge concentration limits and review criteria shall be as follows:

A. The discharge into the POTW of any materials, water or waste having a pollutant concentration greater than the limits in Subsections 4, 5, and 6 of this section or containing pollutants not listed in this subsection shall be subject to the review and approval of the WRA director. After review of the proposed discharges, the WRA director may:

(1) Reject the waste for reasons consistent with Section 101.05 of this chapter.

(2) Require pretreatment to an acceptable pollutant concentration for discharge to the POTW.

(3) Require control of the quantities and rates of discharge of the water or waste.

(4) Require payment to cover the added cost of handling and treatment of water and waste or any combination thereof.

(5) Reduce the maximum or average mass loading of present and prospective individual users on any reasonable prorated basis to meet headworks loading limits at the WRF.

(6) Require the user to obtain a wastewater discharge permit and be subject to any of the rules and regulations contained therein.

(7) Require the user to meet local limits when local limits are more restrictive than National Categorical Pretreatment Standards, provided that headworks loading limits are met.

(8) Initiate enforcement action in response to any noncompliance with this chapter using the enforcement procedures outlined in this chapter.

(9) Take any combination of the steps in Subsections (1) through (7) above, as appropriate.

B. Users discharging wastewater to the POTW whose pollutant concentrations or flows are greater than the following shall be considered industrial users for purposes of sewer charges and may be regulated or permitted by the WRA director as appropriate:

	Pollutant	Daily Maximum (mg/l)
a.	BOD	200
b.	TSS	250
c.	COD	300
d.	O&G-T	100
e.	TKN	30
f.	NH3-N	15
g.	An average daily flow greater than 5,000 gallons or having an unusual concentration of flow.	

4. Pollutant limits. Average and maximum concentration limits for users without National Categorical Pretreatment Standards for these pollutants shall be as follows:

Pollutant	Daily Maximum (mg/l)	Monthly Average (mg/l)
Arsenic-T	0.38	0.25
Cadmium-T	0.08	0.05
Chromium-T	6.43	4.29
Copper-T	10.21	6.80
Cyanide-T	0.53	0.36
Lead-T	1.43	0.95
Mercury-T	0.042	0.028
Nickel-T	7.22	4.81
O&G-T	400.0	--
O&G-Mineral	100.0	--
Silver-T	1.30	0.87
VPH	10.0	--
Zinc-T	19.64	13.09

A. pH range shall be not lower than 5.0 or greater than 12.0.

B. Temperature (liquids or vapors) shall be not greater than 150°F at the point of entry into the POTW.

5. Daily maximum pollutant limits for hauled waste. Wastes delivered to the WRF by truck or rail shall not exceed the following concentrations in any load or overall daily loading limits unless otherwise approved by the WRA Director:

Pollutant	Concentration (mg/l)	Loading (pounds/day)
COD	100,000	--
O&G-T	50,000	--
VPH	10.0	--
Arsenic-T	--	0.014
Cadmium-T	--	0.93
Chromium-T	--	24.74
Copper-T	--	23.71
Cyanide-T	--	0.29
Lead-T	--	6.70
Mercury-T	--	0.12
Nickel-T	--	3.71
Silver-T	--	0.26
Zinc-T	--	87.62

A. pH range shall be not lower than 5.0 or greater than 12.0.

6. Daily maximum limit for gasoline cleanup projects. Discharge of wastewater from sites where gasoline is being removed from the soil or groundwater shall meet the following limits prior to discharge to the POTW:

Pollutant	mg/l
Benzene	0.050
BETX	0.750

7. No subsection of this section shall be construed to provide lesser discharge standards than are or that may be imposed and required by U.S. Environmental Protection Agency or the Iowa Department of Natural Resources, nor to allow the average allowable total loading for any pollutant at the headworks of the WRF to be exceeded.

101.12 NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Users subject to National Categorical Pretreatment Standards (NCPS) as contained in 40 CFR I, subchapter N, part 405-471 shall comply with the standards and applicable reporting requirements under 40 CFR 403.12. New sources of categorical discharge shall meet National Categorical Pretreatment Standards in the shortest feasible time, but in no case longer than 90 days from the commencement of discharge. Failure to comply shall be a violation of this chapter and subject the user to enforcement action. The WRA is required to notify all known affected categorical users of the applicable reporting requirements under 40 CFR 403.12. Failure of the WRA to notify a user shall not relieve the user of the duty, if any, to comply with National Categorical Pretreatment Standards.

101.13 STATE REQUIREMENTS. State of Iowa requirements and limitations on discharges pursuant to this chapter shall apply when they are more stringent than U.S. Environmental Protection Agency or WRA requirements and limitations unless allowed by the Iowa Department of Natural Resources.

101.14 CITY'S RIGHT OF REVISION. The City, acting at the direction of the WRA, reserves the right to establish more stringent limitations or requirements on discharges to the POTW than those contained in this chapter if deemed necessary to comply with the purpose and policy objectives presented in Section 101.05 of this chapter.

101.15 PRETREATMENT.

1. A user discharging or with potential to discharge any waste into the POTW as set forth in Section 101.10, 101.11 or 101.12 of this division shall be required by the WRA director to construct, install and operate, at the user's sole expense, such pretreatment facilities as may be required in order to:

A. Reduce the objectionable characteristics or constituents of wastewater to within the maximum limits provided for in Sections 101.10, 101.11, 101.12, and 101.13 of this chapter.

B. Control the quantities and rates of discharge of such wastewater.

C. Reduce the pollutants to such concentration and flows as may be contained in the user's wastewater discharge permit.

D. Prevent the discharge of liquid waste containing FOG, sand in excessive amounts, any flammable waste, or other harmful pollutants. All traps or similar devices shall be of a type and capacity needed to perform effectively

and shall be readily and easily accessible for cleaning and inspection. All traps or devices shall be provided and maintained in efficient operating condition at all times. Materials removed from traps shall be considered unacceptable for disposal at the WRF unless specifically approved by the WRA director.

2. All plans, specifications, technical operating data and other information pertinent to the proposed operation and maintenance of pretreatment facilities shall be reviewed and approved by the WRA director prior to construction. Design and installation of such facilities shall be subject to the requirements of all applicable codes, chapters and laws, including local zoning regulations. The review and approval of such plans and operating procedures shall, in no way, relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the WRA director under this chapter. Any subsequent changes in the pretreatment facilities or method of operations shall be reported to and be acceptable to the WRA director prior to the user's initiations of the changes.

3. Users shall continuously maintain all pretreatment facilities required by this chapter in satisfactory and effective operating condition at the sole expense of such user.

4. No section contained in this chapter shall be construed to prevent or prohibit a separate or special agreement between the WRA and any user whereby wastewater containing waste of unusual strength, character or composition may be accepted for treatment, subject to additional payment by such user; provided, however, that such agreement shall have the prior approval of the WRA Board, shall not conflict with the Iowa Department of Natural Resources and U.S. Environmental Protection Agency requirements, and shall be consistent with Sections 101.11, 101.12, and 101.13 of this chapter, and Subsection 6 of this section.

5. The WRA director may reject any waste that, in the opinion of the director, may cause interference or pass through.

6. Users shall obtain the specific approval of the WRA director prior to discharging any waste resulting from a pretreatment facility to the POTW. The WRA director may develop a documentation system to track the transportation and final disposition of any pretreatment waste. Pretreatment waste regulated by this subsection shall include waste generated as a result of pretreatment processes used to comply with National Pollutant Discharge Elimination System permits, air pollution permits, wastewater discharge permits, soil/groundwater reclamation processes, and pollutants resulting from a spill of any liquid or solid material or the cleanup of any such spill. Pretreatment waste is prohibited from disposal to the water of the State except as specifically permitted by the Iowa Department of Natural Resources.

101.16 DILUTION PROHIBITED. Users shall not increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or with any other pollutant-specific limitation developed by the WRA or its Operating Contractor.

101.17 SPILL CONTAINMENT.

1. Users having the ability to cause interference or pass through or to discharge a slug shall provide protection from accidental discharge to the POTW of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental

discharge of prohibited materials shall be constructed, installed, operated and maintained at the user's sole cost and expense.

2. Users meeting the criteria in Subsection 1 of this section shall develop a spill containment plan. The plan shall require the approval of the WRA director and shall contain the following:

A. A description of discharge practices, including non-routine batch discharges.

B. A description of stored chemicals.

C. Procedures for immediately notifying the WRA of slug discharges, including any that would violate the discharge prohibitions in Section 101.10 of this division. Notification procedures shall comply with Subsections 3 and 4 of this section.

D. A description of procedures and structures necessary to prevent adverse impacts upon the POTW from accidental spills including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response.

E. A schedule for the completion or implementation of necessary procedures and structures. Complete implementation and installation of any procedures or structures shall be according to the shortest possible schedule, but in no case longer than one year. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify and operate its facility as necessary to meet the requirements of this chapter.

3. Users shall immediately telephone and notify the WRA of any accidental or deliberate discharge of pollutants which violates Section 101.10 of this division or which is a slug load. Any discharge into the POTW of a substance which is a listed or characteristic waste under Section 3001 of RCRA must be immediately reported to the U.S. Environmental Protection Agency Regional Director, the Iowa Department of Natural Resources, and the WRA. Notifications required in this subsection shall include the name of caller, location and time of discharge, pollutant concentration, volume and the corrective actions taken.

4. Users shall submit a written report to the WRA director within five days following such an accidental or deliberate discharge describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Users shall submit follow-up reports as may be required by the WRA director. Such report shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property, nor shall such report relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or otherwise. Failure to report accidental or deliberate discharges may, in addition to any other remedies available to the City, result in the revocation of the discharger's wastewater discharge permit.

5. Users shall control production of all discharges to the extent necessary to maintain compliance with all applicable regulations upon reduction, loss, or failure of its pretreatment facility until the facility is restored or an alternative method of

pretreatment is provided. This requirement applies in the situation where, among other things, the primary source of power to the user's pretreatment facility is reduced, lost or fails.

6. Users required to have a spill containment plan must permanently post a notice in English and the language of common use on the user's bulletin board or other prominent place advising employees whom to call if a prohibited discharge occurs. Users shall ensure that all employees who are in a position to cause, discover, or observe such an accidental discharge are advised of the emergency notification procedures.

101.18 TREATMENT UPSETS. Users shall inform the WRA director within one hour of becoming aware of an upset in operations that places it in a temporary state of noncompliance with the pollutant limits in this chapter. Users shall provide a follow-up written report to the WRA director within five days. The report must demonstrate that the pretreatment facility was being operated in a prudent and appropriate manner and shall contain:

1. A description of the upset, its cause, and impact on the user's compliance status.

2. The duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.

3. All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

101.19 TREATMENT BYPASS. Under this chapter, bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternatives exist such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. The user may allow a bypass to occur which does not cause a violation of pretreatment standards, but only if it is for essential maintenance to ensure efficient operation. Notification of bypass shall be submitted in accordance with the following:

1. Anticipated bypass. If the user knows in advance of the need for a bypass, it shall submit prior written notice, at least 10 days before the date of the bypass, to the WRA director.

2. Unanticipated bypass. The user shall immediately notify the WRA director and submit a written report to the WRA within five days. This report shall specify the following:

A. A description of the bypass, its cause, and the duration.

B. Whether the bypass has been corrected.

C. The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

Proper notification shall not relieve the user of liability for treatment costs and fees or other remedies as provided for in Section 101.15 of this division.

101.20 FEES. To provide for the recovery of costs from users of the POTW and for the implementation of the pretreatment program established by this chapter, the following fees are hereby established and shall be applicable to discharges by all users:

1. All users shall be subject to the following fees and charges:

A. The one-time wastewater discharge permit application fee shall be $200.00 for a Class A permit, and $100.00 for a Class B permit.

B. The annual fee for a Class A wastewater discharge permit, including annual inspection of permitted users, shall be $1,500.00.

C. The annual fee for a Class B wastewater discharge permit, including annual inspection of permitted users if completed or applicable, shall be $750.00.

D. The fee paid by each industrial user when an accidental discharge or slug load occurs shall be the total costs incurred by the WRA as a result of said discharge or load. Said fee may be charged by the WRA separately from and in addition to a civil penalty of up to $1,000.00 charged to the user under Section 101.42 of this article related to said discharge or load.

E. The trip charge for sampling or inspecting a user's discharge shall be $50.00 per event. An equipment fee of $50.00 per event shall also apply when using a WRA-owned automatic sampler. When a sampling or inspection event must be rescheduled due to failure of the user's sampling equipment, a sampler seal (used to detect sample tampering) being broken, monitoring facilities not being readily accessible or operational, or any other reason beyond the control of the WRA, a trip charge of $50.00 shall be assessed.

(Subparagraphs A-E – Ord. 2022-2100 – Feb. 23 Supp.)

F. Laboratory analysis fees for those analyses performed by the WRA shall be as follows:

LABORATORY ANALYSIS FEES		
Test		Cost/Sample
BOD		$20.00
COD		$20.00
Total Organic Carbon (TOC)		$20.00
TSS		$10.00
pH		$5.00
Oil and grease		
	Total	$35.00
	Mineral/nonmineral	$35.00
Nitrogen, ammonia		$15.00
Nitrogen, nitrate		$15.00
TKN		$30.00
Phosphorous, total		$25.00
Potassium		$12.00
Calcium carbonate equivalent		$15.00
Soil analysis, each pollutant		$20.00
Phenols		$28.00
Cyanide		$30.00
Metals:		
	Arsenic	$20.00
	Selenium	$20.00
	Mercury	$25.00
	Other metals (per parameter)	$15.00
	BETX (OA-1)	$40.00
	VPH (OA-1)	$40.00
	BETX & VPH (OA-1)	$45.00
USEPA Tests:		
608 Organochlorine Pesticides and PCBs		$70.00
624 Volatile Organic Compounds		$140.00
625 Base/Neutral Organic Compounds and/or		$290.00
625 Acid/Organic Compounds		$290.00

G. Fees for analysis performed by laboratories other than the WRA laboratory shall be the full cost of each analysis.

H. H.
Fees for rescheduling a scheduled inspection with WRA personnel, with less than 24 hours' notice or if appropriate facility managers are unavailable at the scheduled time of inspection, shall be $100.00 per rescheduled inspection. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

I. I. Fees for copying and mailing documents shall be $1.00 for the initial page and 25 cents for each additional page plus postage. No charges shall be assessed for requests for copies received from individuals or agencies served by the WRA, provided the number of pages requested does not exceed ten.

J. J. Fees for past due reminders sent each 30 days that a balance remains unpaid shall be $5.00.

K. K.Prohibitive waste charges for each pollutant discharged in excess of permit or ordinance limits shall be $50.00 per violation for Class B permit holders and $100.00 per violation for Class A permit holders. Charges shall double if discharges exceed slug threshold values. Payment of fees does not preclude other enforcement action and may not be paid in lieu of compliance with discharge limitations. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

L. L.At the WRA's discretion, administrative cost recovery fees may be assessed separately to a user or added to a user's disposal fee for actions or occurrences subject to Division 6 of this Article which result in the need for additional labor, equipment, and/or materials from the WRA or its contractors, including but not limited to cleanup of spills, infrastructure maintenance, improper scale transactions, improper disposal, and waste source verification. Fees shall be assessed based on the actual costs incurred by the WRA, or on the estimated costs incurred by the WRA rounded down to the nearest multiple of twenty based on actual rates for labor, materials, and equipment with a minimum fee of not less than $20.00. Fees under this Section will be charged in addition to charges, fines, fees, or other costs associated with rejected, unapproved, or atypical wastes under Sections 101.76 and 101.77 of this chapter. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

2. All users contributing wastewater in excess of the concentrations shall be assessed a surcharge, which shall be in addition to the rates and charges ordinarily billed to such users for sewer use. Commencing October 1, 2022, until June 30, 2025, surcharges shall be assessed in accordance with the following rate schedule:

	Surcharge per Pound of Pollutant for the Period:		
Pollutant	10/1/2022 – 6/30/2023	7/1/2023 – 6/30/2024	7/1/2024 – 6/30/2025
Total suspended solids in excess of 250 mg/l	$0.18	$0.20	$0.22
BOD or CBOD in excess of 200 mg/l	0.14	0.17	0.21
TKN in excess of 30 mg/l	0.55	0.49	0.42
Oil and grease in excess of 100 mg/l	0.08	0.10	0.11

A. Commencing on July 1, 2025, surcharge rates listed in the above table shall be annually adjusted as of July 1 of each year to increase two percent per annum rounded to the nearest whole cent.

A. Chemical oxygen demand (COD) in excess of 300 mg/l may be used at the discretion of the WRA Director in lieu of BOD. In such case the excess COD concentration shall be multiplied by the known CBOD/COD ratio or by a ratio of two-thirds (2/3) to establish an equivalent CBOD concentration.

B. Ammonia nitrogen (NH 3-N) in excess of 15 mg/l may be used at the discretion of the WRA Director in lieu of TKN by multiplying the excess NH 3-N concentration times two (2) to establish an equivalent TKN concentration.

(Subsection 2 – Ord. 2022-2100 – Feb. 23 Supp.)

3. The establishment and imposition of new or different fees or charges, in addition or in substitution for those provided above in this section, shall be by ordinance amending this chapter. The amounts of the fees and charges established in this section shall be and remain in effect until such time as the WRA Board shall by resolution revise said fee amounts. Said revised fees and charges shall take effect after the Board causes said resolution to be sent to this City Council and thereafter causes same to be published in a newspaper of general circulation in each county in which participating communities are located.

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DIVISION 3: INDUSTRIAL WASTEWATER DISCHARGE PERMITS AND REPORTING REQUIREMENTS

101.21 CLASSES OF PERMITS. Discharge permit classifications shall be as follows:

1. Class A permit issued to a user discharging 25,000 gallons per day or more of process wastewater (excludes sanitary, non-contact cooling, and boiler blowdown).

2. Class B permit issued to a user discharging less than 25,000 gallons per day of process wastewater.

101.22 PERMIT REQUIREMENTS.

1. All new industrial users shall notify the WRA director of the nature and characteristics of their proposed discharge 180 days prior to commencing discharge. A notification form prescribed by the WRA shall be used for this purpose.

2. Significant users shall discharge wastewater, either directly or indirectly, into the POTW only after obtaining a wastewater discharge permit from the WRA director. Obtaining a wastewater discharge permit does not relieve a user of the obligation to obtain other permits required by federal, State, or local law.

3. Other users, including waste haulers, shall obtain permits as required by the WRA director.

101.23 PERMIT APPLICATIONS; BASELINE MONITORING REPORTS; COMPLIANCE SCHEDULES. Users applying for a wastewater discharge permit or categorical users submitting a baseline monitoring report shall submit the following information as required by 40 CFR 403.12 or by the WRA Director:

1. Users applying for a wastewater discharge permit must submit an application form prescribed by the WRA and accompanied by the application fee. All new significant users must submit such application 180 days prior to the date of any wastewater discharge.

2. Existing users subject to new NCPS must, within 180 days after the effective date of the standard, submit a baseline monitoring report prescribed by the WRA. New users subject to the National Categorical Pretreatment Standards must submit a baseline monitoring report prescribed by the WRA at least 90 days prior to commencement of discharge to the POTW. A baseline monitoring report shall include:

A. Name, address, and location of the facility, if different from the mailing address.

B. Name of the operator and owners of the facility.

C. A list of all environmental control permits held by or for the facility.

D. A description of the operations including the average rate of production, applicable Standard Industrial Classification (SIC) codes, schematic process diagrams, and points to discharge to the POTW from regulated processes.

E. Daily average and daily maximum flow measurements for regulated process waste streams and nonregulated waste streams where necessary.

F. The categorial user shall identify the pretreatment standards applicable to each regulated process and shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required) of pollutants contained therein which are limited by the applicable pretreatment standards from each regulated process.

G. The user shall take a minimum of one representative sample immediately downstream of any pretreatment facility or immediately downstream of each regulated process if no pretreatment exists and prior to mixing with other waste to compile that data necessary to comply with this requirement. If non-regulated wastewater is mixed with regulated wastewater prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the WRA Director. Sampling and analysis shall be performed in accordance with 40 CFR 136 or other verified method approved by the WRA Director.

H. The time, date, and place of sampling, methods of analysis, and certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

I. Historical data may be allowed by the WRA Director so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

J. Certification by an authorized representative of the user as referenced in Section 101.33 and certified to by a qualified professional indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required for the user to meet pretreatment standards and requirements.

K. If additional pretreatment or O&M will be required to meet pretreatment standards, requirements, discharge limits as set forth in Sections 101.10, 101.11 and 101.12 of this article, or any other limit set by the WRA Director, the user shall supply a compliance schedule indicating the shortest time schedule necessary to accomplish installation or adoption of such additional pretreatment or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. Such schedule shall include, where applicable, but shall not be limited to dates for the hiring of an engineer, completing preliminary plans, executing contracts for major components, commencing construction, beginning operation, and conducting routine operations.

(2) No increment referred to in Subsection 2(K)(1) of this section shall exceed nine months, nor shall the total compliance period exceed 18 months.

(3) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the WRA Director, including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the WRA Director.

L. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants required, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The WRA Director may waive flow-proportional composite sampling for any user who demonstrates that flow-proportional sampling is not feasible. In such cases, samples may be obtained through time-proportional techniques or through a minimum of four grab samples where the user demonstrates that such sampling will provide a representative sample of the effluent being discharged.

3. New significant users not subject to categorical standards shall submit analysis of wastewater representative of the effluent discharged to the POTW as required in Subsections 2(G-I) of this section for all parameters deemed necessary by the WRA Director.

4. New or existing industrial users not subject to categorical pretreatment standards who fail to meet local, State, or federal pretreatment standards or other permit requirements on a consistent basis shall be subject to compliance schedules for additional pretreatment or O&M as outlined in Subsection 2(K) of this section.

5. All applications and reports must contain the certification statement and be signed in accordance with Section 101.33.

(Section 101.23 – Ord. 2022-2100 – Feb. 23 Supp.)

101.24 REPORT ON COMPLIANCE BY CATEGORICAL USERS. Users subject to National Categorical Pretreatment Standards shall submit a report to the WRA Director containing the information described in Subsection 100.23(2), of this division within 90 days following the date for final compliance with applicable National Categorical Pretreatment Standards or, in the case of a new source, following commencement of discharge. Users subject to equivalent mass or concentration limits shall provide a reasonable measure of the user's long-term production rate. For all other users subject to National Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All reports must contain the certification statement and be signed in accordance with Section 101.33 of this division. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

101.25 PERMIT CONTENTS. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the WRA Director to prevent pass through or interference; protect the quality of the water body receiving effluent from the POTW; protect worker health and safety; facilitate the WRA's sludge management and disposal program; and

protect against damage to the POTW. The WRA Director may include the following items in the permit, and such additional items as the director determines necessary or prudent:

(Ord. 2022-2100 – Feb. 23 Supp.)

1. Limits on the average or maximum rate of discharge, time of discharge, or requirements for flow regulation and equalization.

2. Limits on the average or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.

4. Development and implementation of spill control plans or other special conditions including additional management practices necessary to adequately prevent accidental, unanticipated, or prohibited discharges.

5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

6. Requirements for installation and maintenance of inspection, sampling, and flow monitoring facilities and equipment for each separate discharge into the POTW.

7. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

8. Compliance schedules.

9. Requirements for submission of technical reports or discharge reports and which may include production data.

10. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the WRA director and affording the director or the director's representatives access thereto.

11. Requirements for the notification of any substantial change in the manufacturing processes, pretreatment processes, quantity or quality of waste discharged to the POTW 90 days prior to such change. The WRA director shall approve, deny or condition a changed discharge prior to a change occurring in accordance with Subsection 101.09(1)(D) of this chapter.

12. Requirements for notification of excessive, accidental, or slug discharges.

13. Other conditions as deemed appropriate by the WRA director to ensure compliance with this chapter, and State and federal laws, rules, and regulations.

14. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit.

101.26 PERMIT DURATION AND RENEWAL. Permits required under this division shall be issued for a specified time period, not to exceed five years. Permit fees shall be due annually to the WRA regardless of the term of the permit. Permitted users shall apply for a new permit by submitting a completed permit application a minimum of 90 days prior to the expiration of the user's existing permit.

101.27 CONTINUATION OF EXPIRED PERMITS. Expired permits issued pursuant to this division shall remain effective and enforceable until the permit is reissued unless the user is notified of permit termination by the WRA director.

101.28 PERMIT MODIFICATIONS. The WRA director may modify the permit issued pursuant to this division for good cause, including but not limited to the following:

1. To incorporate any new or revised federal, State, or local pretreatment standard or requirement. After becoming aware of more stringent standards or requirements, the WRA will, as necessary, update permits within 90 days;

2. To make material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit;

3. To make a change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. Upon receipt of information indicating that the permitted discharge poses a threat to the POTW, to City, WRA or operating contractor personnel, or to the receiving water;

5. Upon occurrence of a violation of any terms or conditions of the permit;

6. Misrepresentation of, or grant of variance from, such categorical standards pursuant to 40 CFR 403.13;

7. To correct typographical or other errors in the permit;

8. To reflect transfer of ownership or operation of the permitted facility to a new owner or operator; or

9. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance shall not have the effect of staying or delaying the implementation or effective date of any permit condition.

101.29 PERMIT TRANSFER. An industrial wastewater discharge permit is not transferable to any other person or entity. A new owner or operator must apply for a new wastewater discharge permit 60 days prior to taking ownership or undertaking operation of a permitted facility.

101.30 DENIAL OF PERMIT. The WRA director may deny a wastewater discharge permit to any user whose discharge of material to the POTW, whether shown upon application, including test results submitted by the applicant, or determined after inspection or testing conducted by the WRA or its operating contractor, is not in conformity with this chapter or whose application is incomplete or does not comply with the requirements of Section 118-393 of the Waste Water Reclamation Authority/City of Des Moines Municipal Code.

101.31 PERMIT VIOLATIONS. Any violation of the terms, conditions, or limits of a user's wastewater discharge permit shall be deemed a violation of this chapter and shall subject the user to all enforcement procedures outlined in this chapter.

101.32 PERIODIC COMPLIANCE REPORTS. Under this division, periodic compliance reports are required as follows:

1. Significant users shall submit to the WRA director, during the months of January and July, a report indicating the nature, concentration, and flow of pollutants in the effluent which are limited by permit or pretreatment standards for the preceding six-month period. This report shall include a record of the monthly average flows and the daily flow for each analysis date during the reporting period. At the discretion of the WRA director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the WRA director may agree to alter the months during which the reports are to be submitted. More frequent reports may be required by the WRA director.

2. The WRA director may impose mass limitations on users. In such cases, the report required by Subsection 1 of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. All analyses shall be performed using Environmental Protection Agency approved methods using sampling techniques approved by the Iowa Department of Natural Resources.

3. Users shall meet the certification and signatory requirements in Section 101.33 of this division for each report submitted under this section. Where the WRA itself collects all the information required for the report, including flow data, the industrial user will not be required to submit a periodic compliance report.

4. A user must notify the WRA director of all violations identified as a result of self-monitoring to the POTW by telephone, during normal business hours, within 24 hours of the time the user becomes aware of such violation. The user must also submit the results of repeat analyses to the WRA within 30 days after becoming aware of the violation, together with a complete report on all steps taken to resolve the violation. The user need not repeat the analyses if:

   A. The WRA performs sampling of the industrial user at a frequency of at least once per month; or

   B. The WRA performs sampling of the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

5. A user who monitors any pollutant more frequently than required by the WRA or who self-monitors in addition to WRA monitoring, using Environmental Protection Agency methods or standard methods, shall report the monitoring results to the WRA director in accordance with Subsections 1, 3, and 4 of this section.

101.33 CERTIFICATION AND SIGNATORY REQUIREMENTS. All applications or reports submitted by a user pursuant to this division shall contain the following certification statement:

> *"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false*

information, including the possibility of fine and imprisonment for knowing violations."

All applications and reports shall be signed by an authorized representative of the user as defined in Section 101.01 of this chapter. A user shall maintain a current and accurate authorization on file with the WRA director.

101.34 MONITORING FACILITIES.

1. When required by the WRA director pursuant to this division, each permitted user shall at its expense provide and operate monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems. The WRA director may require the placement of such monitoring facilities at the end of each process where pollutants are used, produced, or treated. The monitoring facility should normally be situated on the user's premises and located so that it will not be obstructed by landscaping or parked vehicles.

2. When required by the wastewater discharge permit and within 90 days of written notification, a user shall install a sampling chamber for each separate discharge of the building sewer in accordance with plans and specification approved by the WRA director. A user shall provide ample room in or near such sampling chamber to allow accurate sampling and preparation of samples for analysis. Each user shall at its expense maintain all sampling and measuring equipment in a safe and proper operating condition at all times, which equipment shall be safely, easily and independently accessible to authorized representatives of the WRA. Users shall certify all flow measuring devices to be in proper working condition at a frequency specified in the permit or in writing by the WRA director, using a qualified technician acceptable to the WRA director. Sampling shall be in accordance with the following:

A. Each sampling chamber shall contain a flume unless another device is approved by the WRA director, with a recording and totalizing device for measurement of the liquid quantity.

B. At the discretion of the WRA director, metered water supply to a user may be used as the volume quantity where it is substantiated that the metered water supply and waste quantities are approximately the same, or where a measurable adjustment agreed to by the director is made in the metered water supply to determine the liquid waste quantity. Separate meters may be used to subtract water which is not discharged to the POTW or is discharged to a sewer other than the sampled location.

C. Samples shall be taken at a frequency and volume determined by the WRA director and shall be properly refrigerated and preserved in accordance with Environmental Protection Agency approved methods. The sample shall be composited in proportion to the flow for a representative 24-hour sample. A time proportioned 24-hour sample may be used if flow proportioned sampling is determined by the WRA director to be impractical. Grab samples shall be used where appropriate.

3. A user must inform the WRA director prior to breaking a sampler seal, used by the WRA to detect sample tampering, unless necessary to prevent loss of life, personal injury, or severe property damage. A user shall not place additional seals or locks upon a sampler which may be used by the WRA without first obtaining approval from the WRA director.

101.35 INSPECTION, SAMPLING, AND RECORD KEEPING AUTHORITY. Under this division, users shall be deemed to have given the following authorities to the WRA and its operating contractor:

1. Users shall permit authorized representatives or agents of the WRA to enter upon all properties and all parts of the premises, or upon properties of users with wastewater discharge permits, for the purposes of inspection, sampling, records examination, records copying, or the performance of any of their duties. This shall include the right to set up, on the user's property, such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering operations as may be required in pursuance of the implementation and enforcement of this chapter.

2. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements in the security measures so that, upon presentation of suitable identification, WRA or operating contractor personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

3. All users subject to any of the reporting requirements of this chapter shall maintain copies of reports and records of all information as required in 40 CFR 403.12(o) resulting from any monitoring activities required by this chapter for a minimum of three years and shall make such records available for inspection and copying by the WRA and its operating contractor. This period of retention shall be extended until the completion of any unresolved negotiation, hearing, or litigation involving a purported violation.

101.36 CONFIDENTIAL DOCUMENTS, DATA, AND INFORMATION. Except as provided in this section, documents, data and information obtained from user reports, questionnaires, permit applications and inspections pursuant to this division shall be made available to the public or other governmental agencies without restriction. If the user specifically requests and is able to demonstrate that the release of such information would divulge information concerning processes or methods of production entitled to protection under law as trade secrets of the user or would give advantage to competitors and serve no public purpose, the WRA director may determine that such information should be kept confidential and not made available for public examination, but such information shall be available to the U.S. Environmental Protection Agency or the Iowa Department of Natural Resources.

1. Decisions by the WRA director to deny confidential status for information may be appealed using the procedures in Section 118-407 of the Wastewater Reclamation Authority/City of Des Moines Municipal Code. In determining whether information is confidential, the provisions of Chapter 22 of the *Code of Iowa* shall prevail.

2. Effluent data and enforcement actions by the WRA or its operating contractor will not be considered confidential records or information.

101.37 APPEAL OF DENIAL OF CONFIDENTIAL STATUS.

1. Any person aggrieved by the WRA director's decision to release information or data obtained as provided in Subsection 118-406(a) of Wastewater Reclamation Authority/City of Des Moines Municipal Code and who can demonstrate a direct and substantial interest in the information or data sought to be kept confidential may appeal the WRA director's decision. A request for appeal shall be filed in writing with the WRA director not less than five days after the WRA director's decision to deny confidential status to such information or data. The appeal request shall include a

statement of the basis upon which the request for confidential status is made, as well as the appealing party's interest in the information or data sought to be kept confidential. The WRA director may request additional information from the appealing party.

2. Based upon the information provided by the appealing party, the WRA director shall make a determination with respect to the confidentiality of the information or data at issue. The WRA director shall notify the parties, in writing, of the WRA director's decision within seven days after receipt of the appeal.

3. If still aggrieved by the WRA director's determination on appeal, a party may file an action in Polk County District Court, seeking a declaratory ruling with respect to the confidentiality of such documents, data and information, or seeking an injunction to prevent the disclosure of same.

4. During the pendency of an appeal to the WRA director, the documents, data or information at issue shall be kept confidential. However, if during the pendency of such appeal, a request for examination or copying of such documents, data or information is made of the WRA or its operating contractor pursuant to Chapter 22 of the *Code of Iowa*, the WRA or its operating contractor will notify the appealing party of such request for disclosure and will keep confidential the requested documents, data or information, pending action by the appealing party to defend its confidentiality request. In that notification, the appealing party requesting confidentiality will be given not more than five calendar days within which to file suit in Polk County District Court seeking the entry of a declaratory order and/or injunction to protect and keep confidential such documents, data or information. If the appealing party fails to initiate suit within the time requested, the WRA director shall release the documents, data or information at issue for public examination.

5. If during the pendency of such appeal, a lawsuit is initiated pursuant to Chapter 22 of the *Code of Iowa*, requesting the release of such documents, data or information, the appealing party shall take action to defend its confidentiality request in said lawsuit. If the appealing party fails to defend its confidentiality request in said suit, the WRA director shall release the documents, data, or information at issue for public examination.

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DIVISION 4: ENFORCEMENT OF INDUSTRIAL WASTEWATER REGULATIONS

101.38 PUBLIC NOTIFICATION OF SIGNIFICANT NONCOMPLIANCE. The WRA will annually publish, in the largest daily newspaper published in the WRA community, a list of users who at any time during the previous 12 months were in significant noncompliance as defined in Section 101.39 of this division.

101.39 SIGNIFICANT NONCOMPLIANCE. Any violation of pretreatment requirements under this chapter (i.e., including but not limited to those relating to limits, sampling, analysis, reporting, meeting compliance schedules, and regulatory deadlines) is an instance of noncompliance for which the user is liable for enforcement, including penalties and injunctive relief. Instances of significant noncompliance are user violations which meet one or more of the following criteria:

1. Violations of wastewater discharge limits as follows:

   A. Chronic Violations. 66 percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance).

   B. Technical Review Criteria (TRC) Violations. 33 percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period (e.g., limit x TRC = the point at which a violation becomes a TRC violation). There are two groups of TRCs as follow:

Group I for conventional pollutants (BOD, TSS, FOG)	TRC = 1.4
Group II for all other pollutants	TRC = 1.2

   C. Any other violation of a wastewater discharge permit limit (average or daily maximum) that the WRA director believes has caused, alone or in combination with other discharges, interference, including slug loads, or pass through or which endangers the health of City, WRA, or operating contractor personnel or the public.

   D. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the WRA's exercise of its emergency authority to halt or prevent such a discharge.

2. Violations of compliance schedule milestones, contained in a wastewater discharge permit or enforcement order, for starting construction, completing construction, or attaining final compliance by 90 days or more after the schedule date.

3. Failure to provide reports for compliance schedules, self-monitoring data, or any other report required by the WRA within 45 days from the due date.

4. Failure to accurately report noncompliance.

5. Any other violation or group of violations, which may include a violation of Best Management Practices, that the WRA director considers to be significant.

6. When a user is in significant noncompliance, the WRA director is directed to:

A. Report the information to the Iowa Department of Natural Resources as part of the annual pretreatment performance summary of permitted user noncompliance.

B. Include the user in the annual public notification according to Section 101.38 of this division.

C. Address significant noncompliance through appropriate enforcement actions or document in a timely manner the reasons for withholding enforcement.

101.40 ADMINISTRATIVE ACTIONS.

1. The WRA director may issue a written notice to the user giving the specific nature of violations which shall include the frequency, magnitude and impact of the violation upon the POTW. The notice may also include the following:

A. An order requiring a plan of action for preventing reoccurrence of the violation.

B. An order requiring specific action for accomplishing remediation.

C. An order requiring the user to respond in writing within 30 days.

2. The WRA director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for any noncompliance. Such orders will include specific action to be taken by the user to correct noncompliance within a time period specified by the order.

3. The WRA director may issue enforceable orders or schedules to require compliance with pretreatment standards including appropriate interim limits. Such orders and schedules may be incorporated as a revision to an existing wastewater discharge permit and shall not require the consent of the user.

101.41 ACTIONS AUTHORIZED. Where there has been noncompliance with any section of this chapter, the WRA director may request the WRA operating contractor's attorney, or the attorney retained by the WRA for that purpose, to bring an action in equity or at law to seek the issuance of a preliminary or permanent injunction, or both, or such other relief as may be appropriate, to compel the user's compliance with this chapter. In addition to other remedies provided under this section or other sections of this chapter, in any action brought at the request of the WRA director to enforce this chapter, the WRA operating contractor's attorney or the attorney retained by the WRA is authorized to seek to recover all actual damages suffered by the City or the WRA, including all actual damages and losses related to costs of repair and remediation of the POTW, costs of investigation and administration reasonably related to any particular violation and attorneys' fees.

101.42 CIVIL PENALTIES.

1. Each violation of any section of this chapter or of a permit issued under this chapter is declared to be a municipal infraction. Each day that a violation of a section of this chapter continues, and each day that a violation of a permit issued under this chapter continues, shall be considered a separate municipal infraction.

2. Any person who knowingly makes a false statement, representation or certification in any application, record, report, plan or other document filed or required

to be maintained pursuant to this chapter or a wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, commits a municipal infraction punishable by a civil penalty as hereafter provided in Subsection 4 of this section.

3. Any person who fails to perform an act required by the provisions of this chapter, or who commits an act prohibited by the provisions of this chapter, commits an environmental violation and shall be guilty of a municipal infraction, punishable by a civil penalty. Violation of a pretreatment standard or requirement referred to in 40 CFR 403.8 is an environmental violation punishable by a civil penalty as hereafter provided in Subsection 4 of this section.

4. Whenever in this division any act is prohibited and is declared to be a municipal infraction or whenever in this division the doing of any act is required and the failure to do that act is declared to be a municipal infraction, the violation of any such provision shall be punishable by a civil penalty of not more than $500.00 for each violation or, if the infraction is a repeat offense, by a civil penalty of not more than $750.00 for each repeat offense. However, a municipal infraction which is classified as an environmental violation or which arises from noncompliance with a pretreatment standard or requirement, referred to in 40 CFR 403.8, by an industrial user may be punishable by a civil penalty of not more than $1,000.00 for each day a violation exists or continues. Each day a violation of a provision of this division continues shall be considered a separate municipal infraction.

101.43 PERFORMANCE AND PAYMENT BONDS.

1. The WRA Director may decline to reissue a permit to any user who has failed to comply with this chapter or any order or previous permit issued under this chapter unless such user first files a satisfactory bond payable to the WRA in a sum not to exceed the value determined by the WRA Director to be necessary to achieve compliance giving due consideration to the number and magnitude of previous violations, potential need for remediation and stating the reasons which support the amount of bond in a written order directed to the user, but in no case shall the bond be required to be greater than $100,000.00. The user shall use a bond form prescribed by the WRA.

2. The WRA Director may require any user, including any permitted or non-permitted waste generator which sends its wastewater by truck to the WRF, to obtain a bond payable to the WRA with reasonable surety in a penal sum which will adequately cover treatment costs, surcharges, fees, or any other charges associated with discharge of wastewater to the POTW in the amount as listed in Section 101.20. The user shall use a bond form prescribed by the WRA.

(Section 101.43 – Ord. 2022-2100 – Feb. 23 Supp.)

101.44 REVOCATION OF DISCHARGE PERMIT; TERMINATION OF SEWER SERVICE.

1. Grounds for revocation of discharge permit and/or for termination of sewer service. Any user who violates this chapter, any condition of its wastewater discharge permit, or any of the following is subject to having its permit revoked and/or its sewer service terminated in accordance with the procedures of this section:

A. Failure to accurately report the wastewater constituents and characteristics of its discharge.

B. Failure of the user to report substantial changes in process activity or in volume or character of pollutants being discharged into the POTW at least 90 days prior to such change.

C. Tampering with monitoring equipment.

D. Refusal to allow reasonable access by WRA or operating contractor personnel to the user's premises for the purpose of inspection, monitoring, or sampling.

E. Violation of permit conditions.

F. Failure to report an upset, failure, or bypass of the user's pretreatment facilities.

G. Failure to pay fines, fees, surcharges, or sewer service charges. ***(Paragraph G – Ord. 2022-2100 – Feb. 23 Supp.)***

H. Failure to follow enforcement orders or compliance schedules.

I. Failure to correct a condition that impedes or alters the WRA's ability to monitor the user's discharge or has the potential to cause interference or pass through.

J. Failure to obtain a wastewater discharge permit as required by this chapter after notification by the WRA director that such permit is required.

K. Failure to pay actual costs for negligent damage, or actual costs and penalties charged for grossly negligent or intentional damage, to the POTW not addressed elsewhere in this article. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

2. Procedure for revocation of discharge permit and for termination of sewer service. The procedure for revocation of a discharge permit and termination of sewer service shall be as follows:

A. Any permit issued to a user pursuant to this chapter may be revoked, and sewer service terminated, by written order of the WRA director, specifying the grounds for such revocation and termination as outlined in Subsection 1 of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to revoke a user's discharge permit and terminate sewer service, the WRA director shall cause a notice of hearing to be prepared, specifying the violations of Subsection 1 of this section which are deemed to have occurred, and the time, date and place that such hearing will be held. The notice shall be sent to the user by regular mail addressed to the user's address listed on the wastewater discharge permit a minimum of 10 days prior to the date set for hearing, and shall be deemed delivered when placed in the mail.

B. Sewer service may be terminated by written order of the WRA director, specifying the grounds for such revocation and termination as outlined in Subsection 1(J) of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to terminate sewer service, the WRA director shall cause a notice of hearing to be prepared, specifying the violation of Subsection 1(J) of this section which is deemed to have occurred, and the time, date and place that such hearing will be held. The notice shall be sent to the user by regular mail addressed to the user's

address a minimum of 10 days prior to the date set for hearing, and shall be deemed delivered when placed in the mail.

C. If after such a hearing the WRA director makes a finding based on substantial evidence that violations under Subsection 1 of this section have occurred as alleged, the director may issue an order immediately revoking the permit, if a permit had previously been issued, and terminating sewer service to the user's premises. The determination to revoke such permit and terminate service, shall be in the discretion of WRA director and shall be dependent upon the circumstances surrounding the user's violations of Subsection 1 of this section and the severity of those violations. If the user does not appear for the hearing, the WRA director shall issue the order revoking the discharge permit and/or terminating sewer service, which shall take effect immediately.

D. The decision and order of the WRA director to revoke the permit of a user may be appealed to the WRA appeal committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the director's entry of the order of revocation of permit and/or termination of sewer service. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

E. WRA Appeal Committee
F. c/o Des Moines Metropolitan Wastewater Reclamation Authority
G. 3000 Vandalia Road
H. Des Moines, Iowa 50317

I. The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing user. Such appeal shall be decided by majority vote of the appeal committee. If the appeal committee affirms the order of the WRA director revoking the permit and/or terminating sewer service, the appeal committee shall so state and order in its written decision.

J. A user whose permit has been revoked shall not be eligible for another permit until 30 days after the violating conditions have been corrected to the satisfaction of the WRA director.

K. F.
Upon determination by the WRA Director that the user's sewer service connection to the POTW be terminated, the director's written order shall be sent to the City Public Works Department who shall cause the user's connection to the sewer to be severed or plugged. The manner of severance and procedure for disconnection shall be determined by the City Public Works Department. Upon completion of the disconnection, the City Public Works Department shall certify to the WRA Director the City's cost to disconnect the user's sewer service. Upon receipt of such certification of costs, the WRA Director shall forward to the user whose service was disconnected by registered mail return receipt requested, certified mail, or personal service a bill for the cost of making the disconnection, including all costs for labor and materials, and a service charge of $500.00 for WRA supervision. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

L. G. Any building at which sewer service is disconnected as herein provided shall be inspected by the City building official and if appropriate shall be red-tagged as unfit for human occupancy.

101.45 RESERVED.

101.46 REINSTATEMENT OF SERVICE. If service is severed pursuant to this division, the service may be reinstated in the following manner:

1. Upon payment to the WRA of any delinquency in full, supervision fee of $500.00, and an inspection by the WRA Director to determine whether the original cause for termination has been corrected, the WRA will issue a permit for reconnection of the building service line to the POTW. Such reconnection costs, plus inspection fees for the City in accordance with this Code, shall be at the sole expense of the user.

(Subsection 1 – Ord. 2022-2100 – Feb. 23 Supp.)

2. Upon reconnection and payment of all costs described in Subsection 1 of this section, the City, through its agents, shall remove the red tag from the building, and the building shall, so far as the City is concerned, be fit for human occupancy.

101.47 EMERGENCY DISCONNECTION OF SERVICE. The WRA director may, after informal notice, suspend the wastewater discharge permit of, and sewer service to, a user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment. The procedure for immediate disconnection shall be as follows:

1. When the WRA director determines that a discharge as described in this section exists, an oral order shall be issued, followed immediately by a written order, to the user stating the problem and requiring immediate cessation of the discharge. A user orally notified of a suspension of its wastewater permit or sewer service shall immediately stop or eliminate all discharges. If a user fails to immediately and voluntarily comply with the suspension order, the WRA director shall take immediate action to eliminate the discharge, including disconnection from the POTW. Methods of informal notice to a user shall include but not be limited to any of the following: personal conversations between user and personnel or the WRA or its operating contractor, telephone calls, letters, hand-delivered messages or notices posted at the user's premises or point of discharge.

2. A user responsible, in whole or in part, for imminent endangerment shall submit to the WRA director, prior to the hearing described in Subsection 101.44(2) of this division, a detailed written report describing the causes of the endangerment and the measures taken to prevent any future occurrence.

101.48 ELIMINATION OF DISCHARGE; REINSTATEMENT OF PERMIT. A user notified by the WRA director of revocation of its discharge permit and/or disconnection of its sewer service under Section 101.44 or 101.45 of this division shall immediately cease discharging wastewater to the POTW. If the user fails to comply voluntarily with the revocation and/or disconnection order, the City shall take such steps as are deemed necessary by the WRA, including immediate severance of the sewer connection. The WRA director shall reinstate the wastewater discharge permit or the sewer service upon proof of the elimination of the non-complying discharge.

101.49 ADDITIONAL REMEDIES.

1. In addition to remedies available to the WRA set forth elsewhere in this chapter, if the WRA is fined by the Iowa Department of Natural Resources or the U.S. Environmental Protection Agency for violations of the National Pollutant Discharge Elimination System permit for the WRF, or for violations of water quality standards as the result of a discharge of pollutants by an identifiable user, the fine, and all legal, sampling, analytical testing costs and any other related costs, shall be charged to the responsible user. Such charge shall be in addition to any other remedies the WRA may have under this chapter at law or in equity.

2. If the discharge from any user results in a deposit, obstruction, damage or other impairment to the POTW, the user shall become liable to the City and/or the WRA for any expense, loss, or damage caused by the violations or discharge. The WRA may add to the user's charges and fees the costs incurred by the WRA and by the City for any cleaning, repair, or replacement work caused by the violations or discharge.

3. The remedies provided in this chapter shall not be exclusive, and the WRA may seek whatever other remedies are authorized by statute, at law or in equity against any persons violating this chapter.

4. In addition to any other remedies provided in this chapter, the City and/or the WRA may initiate an action, either in law or in equity, to obtain an injunction against further violations of this chapter and for judgment for all costs incurred by the City and/or the WRA occasioned by the user's violation of any requirements of this chapter.

101.50 NOTICES TO THE WRA, THE WRA BOARD, THE WRA DIRECTOR, OR THE WRA STEERING COMMITTEE. Notices which are required to be given or which may be given to the WRA, the WRA board, the WRA director or the WRA appeal committee, as provided in this chapter, shall be mailed to such entity, body or person at the following address:

A. Des Moines Metropolitan Wastewater Reclamation Authority
B. Des Moines Wastewater Reclamation Facility
C. 3000 Vandalia Road
D. Des Moines, Iowa 50317

[The next page is 699]

A. DIVISION 5: REGULATION OF FAT, OIL, AND GREASE DISCHARGE BY FOOD SERVICE ESTABLISHMENTS

101.51 PURPOSE. The purpose of this section shall be to aid in the prevention of sanitary sewer blockages and obstructions from contribution and accumulation of fat, oil, and grease (FOG) into the POTW. Such discharges from commercial kitchens, restaurants, food processing facilities and all other establishments, where fat, oil and grease of vegetable or animal origin are discharged directly or indirectly into the POTW, can contribute to line blockages and/or spills in violation of Title 40, Code of Federal Regulations 40 CFR Part 403.

101.52 DEFINITIONS. The definitions found in Section 101.01 shall apply to the provisions of this division, provided however that the following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Best management practices" or "BMPs" means and includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. For purposes of this division, best management practices include procedures and practices that reduce the discharge of FOG to the building sewer, to the City sanitary sewer system and to the POTW.

2. "Design liquid depth" means the maximum depth of liquid when the tank is filled with water.

3. "Effective date" means the date set forth in Section 101.53 upon which the regulatory provisions of this division take effect.

4. "Food service establishment" or "FSE" means an operation or enterprise that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Such facilities may include, but are not limited to, those that process meat or other food ingredients as an intermediate step or for final human consumption, food service operations in a summer camp, residential substance abuse treatment facility, halfway house, correctional facility, school, restaurant, commercial kitchen, caterer, church, hotel, bars, hospital, prison, care institution or similar facility.

5. "Grease interceptor" means a tank that serves one or more fixtures and is remotely located. Grease interceptors include, but are not limited to, tanks that capture wastewater from dishwashers, garbage disposals, floor drains, pot and pan sinks and trenches as allowed by local plumbing codes. For purposes of this chapter, a grease interceptor is a multi-compartment tank located underground outside of a building that reduces the amount of FOG in wastewater prior to its discharge into the POTW.

6. "Grease trap" means a device designed to retain grease from one to a maximum of four fixtures. Not all grease traps are approved by the manufacturer for use on heated water (e.g., dishwasher) or in-line to a waste disposal unit (e.g., garbage disposal and grinders). For purposes of this chapter, a grease trap is a small device located within a building.

7. "Minimum design capability" means the design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the POTW.

8. "Non-routine inspection" means an impromptu, unscheduled inspection of an FSE made without prior notification or arrangement.

9. "Routine inspection" means an inspection of an FSE which is scheduled in advance or according to a pre-arranged schedule.

10. "User" means the same as defined in Section 101.01, but also includes persons who discharge wastewater to the POTW from mobile sources, such as mobile food vendors.

101.53 EFFECTIVE DATE OF FOG REGULATIONS. The provisions of this division shall be effective on and after the date of publication of the ordinance codified in this chapter.

101.54 GREASE INTERCEPTOR INSTALLATION REQUIRED AFTER EFFECTIVE DATE. The owner of a building or facility in which an FSE is located, and the owner or operator of an FSE shall be required to install an approved grease interceptor, and to thereafter operate and maintain same as provided in this division.

101.55 EXEMPTION FROM GREASE INTERCEPTOR INSTALLATION REQUIREMENT FOR EXISTING FACILITIES. The requirements of Section 101.54 shall not apply to that portion of a building or facility within which an FSE is in existence on the effective date if:

1. The FSE has an existing grease interceptor or grease trap in place as of the effective date and provided that: (i) the owner or occupant of the FSE continues to use the interceptor or trap, (ii) the interceptor or trap is of sufficient capacity and design, and (iii) the interceptor or trap is operated and maintained so as to comply with FOG discharge limits; and

2. Any repair, remodeling or renovation of the wastewater plumbing system in the existing FSE involves only: (i) the repair of leaks or the clearing of stoppages in drains, soil, waste or vent piping, or (ii) the removal and reinstallation of a sink, toilet, or hot water heater; provided that such work does not involve replacement, rearrangement or moving of wastewater pipes, floor sinks, drainage fixtures, or grease traps; and

3. None of the following conditions are present:

A. A building or facility exists on the effective date and is thereafter expanded or renovated, or a portion thereof, to include an FSE where such FSE did not previously exist; or

B. An FSE exists on the effective date within a building or facility, or portion of a building or facility, and application is thereafter made for a building permits for such building or facility with valuation of $50,000.00 or more within a 12-month period; or

C. A building or facility, or portion thereof, that contained an FSE on the effective date but in which an FSE ceases to operate for one year or more, as determined by Iowa Department of Inspections and Appeals, Food and Consumer Safety Bureau records.

101.56 COMPLIANCE PROCEDURES. After the effective date, any permitted construction under Section 118-479 of the Wastewater Reclamation Authority/City of Des Moines Municipal Code shall be deemed compliant upon issuance of a certificate of compliance or certificate of occupancy for such construction by the City building official or designee.

1. An FSE shall be deemed compliant, unless the WRA director or local building official or designee determines that an existing grease trap or grease interceptor is incapable of adequately retaining FOG. In such cases, the Director may order the FSE to install an adequate grease interceptor within a specified time period if:

A. The FSE is found to contribute FOG in quantities above FOG discharge limits; or

B. The FSE discharges necessitate increased maintenance on the POTW in order to keep stoppages from occurring therein; or

C. The FSE's discharge to the POTW is at any time determined to exceed 400 mg/l total FOG.

2. An order directing an existing FSE or the owner or operator of the FSE or the owner of the building or facility in which the FSE is located to install a grease interceptor shall be in writing from the WRA Director in the form of a notice of violation including a corrective action order, as provided in Section 118-488 of the Wastewater Reclamation Authority/City of Des Moines Municipal Code.

3. FSEs or owners of buildings within which a FSE is located which are unable to install or replace a grease interceptor due to exceptional physical constraints or economic hardship may appeal to the WRA director for approval of an alternative grease control technology by requesting a hearing in accordance with the provisions of this division. Such requests shall be submitted in writing and shall include detailed descriptions of the FSE's physical or financial constraints and the alternative grease control technology that it proposes to install and utilize.

A. In order to demonstrate exceptional economic hardship, the owner or operator of the FSE shall submit to the WRA director balance sheets and profit and loss statements for FSE for the preceding three years. A new FSE shall submit profit/loss projections or a detailed business plan with projections for 24 months. Each request shall be evaluated on a case-by-case basis.

B. Notwithstanding approval of alternative grease control technology, when the WRA director determines that such alternative is not performing adequately, the FSE or owner of the building or facility in which the FSE is located shall be required to take additional grease control measures, which may include the installation of a grease interceptor.

C. In order to demonstrate exceptional physical site constraints preventing the installation of a grease interceptor, the owner or operator of the FSE or the owner of the building in which the FSE is located shall submit to the WRA director documentation and plats showing the location of sanitary sewer and any private easements in relation to the building sewer for the building housing the FSE, and showing available space inside or outside the building and drawings of existing plumbing at or in a site that uses common plumbing for all services at that site.

D. An FSE that is given an exemption from installing a properly sized grease interceptor is prohibited from installing or using a dishwasher or garbage disposal without approval of the director and must comply with the conditions of such approval, if any.

101.57 INSTALLATION OF GREASE INTERCEPTORS AND GREASE TRAPS. Grease interceptors and grease traps, when required, shall be installed as follows:

1. Grease interceptors and grease traps shall be installed at the expense of the owner or operator of the FSE or owner of the building or facility in which the FSE is located which is contributing wastewater to the POTW.

2. All wastewater streams containing FOG or reasonably likely to contain FOG within FSEs or other FOG generating operations shall be directed into one or more appropriately sized grease interceptors before discharge to the POTW. Grease interceptors shall be either sized by adding the peak design flow rates for all fixtures leading to the grease interceptor and allowing a minimum retention time of 30 minutes or as follows:

GREASE INTERCEPTOR SIZING	
Peak Meals Per Hour	
Seating capacity of FSE	_____
Occupancy of FSE	_____*
Seating or Occupancy x Meal Factor of 1.3 (45-minute meal) or 1.0 (intermittent-use FSEs) = Peak Meals Per Hour	
*Church: Include all areas used for meal service.	
*Assisted Living/Nursing Facility: equal to maximum number of residents (per State license)	
Waste Flow Rate, Gallons of Flow	
Commercial, equipped kitchen with dishwasher and one garbage disposal*	7
Commercial, equipped kitchen with dishwasher, no garbage disposal	6
Commercial, equipped kitchen with no dishwasher and one garbage disposal*	6
Commercial, equipped kitchen with no dishwasher, no garbage disposal	5
Single service kitchen**	2
*Each additional garbage disposal, add one gallon	
**Single service kitchens = no garbage disposal, no dishwasher, and all service is single use	
Retention Time, Hours	
Commercial kitchen	2.5
Single service kitchen	1.5
Storage Factor	
Commercial kitchen up to 8 hours of operation	1
Commercial kitchen up to 12 hours of operation	1.5
Commercial kitchen up to 16 hours of operation	2
Commercial kitchen up to 20 hours of operation	2.5
Commercial kitchen up to 24 hours of operation	3
Single service kitchen	1.5

Peak Meals per Hour	x	Waste Flow Rate	x	Retention Time	x	Storage Factor	=	Calculated Interceptor Size

3. Concrete grease interceptors whether precast or poured in place, shall be designed and manufactured in accordance with ASTM C 1613-08 Standard

Specifications for Precast Concrete Grease Interceptor Tanks or IAPMO/ANSI Z1001 Grease Interceptors and shall be installed in accordance with the codes adopted by the jurisdiction in which the FSE is located. Where no code is adopted, the construction and installation shall be in accordance with the Iowa State Plumbing Code and this division. Grease interceptors using materials other than concrete require approval by the director, and shall comply with the conditions of such approval, if any.

4. The building official or other designated official of the governmental subdivision within which the FSE is located shall inspect each grease interceptor installation made pursuant to this division, shall review all relevant information regarding the rated performance of the grease interceptor, and the building plan and facility site plan for the building and site where the grease interceptor has been installed, and shall approve such grease interceptor installation upon determination that the grease interceptor meets all applicable standards and requirements.

5. Grease interceptors shall have a minimum capacity of 1,000 gallons and shall not exceed 5,000 gallons for a single unit. Where a capacity greater than 5,000 gallons is required, several smaller units shall be installed in series, however, the capacity shall not exceed 10,000 gallons for any single series of interceptors without the approval of the director.

6. Grease interceptors shall be installed outside the building housing the FSE and below surface grade, and shall have access manholes, with a minimum diameter of 24 inches, over each chamber and sanitary tee. Access manholes shall extend from the grease interceptor to at least the finished surface grade and be designed and maintained to prevent storm or surface water inflow and groundwater infiltration. The manholes shall also have readily removable covers to facilitate inspection and grease removal.

7. Sewer lines which are not grease laden, which are not likely to contain FOG, or which contain sanitary wastes shall not be connected to a grease interceptor.

8. Grease interceptors shall be equipped with an accessible discharge sampling port with a minimum six-inch diameter, which shall extend from the grease interceptor to at least the finished surface grade.

9. Where grease interceptors are shared by more than one FSE, the building owner shall be the responsible party for record keeping and cleaning of the interceptor.

101.58 OPERATION, MAINTENANCE, AND CLEANING OF GREASE INTERCEPTORS AND GREASE TRAPS AND GREASE HAULER CERTIFICATION.

1. The owner or operator of an FSE which is required to pass wastewater through a grease interceptor or trap shall operate and maintain the grease interceptor or trap so that wastewater exiting the grease interceptor or trap shall not exceed 400 milligrams per liter of FOG.

2. The owner or operator of the FSE shall cause the grease interceptor or trap to be cleaned as hereinafter required when FOG and solids reach 25 percent of the design liquid level of the grease interceptor or trap, or sooner if necessary to prevent carry over of FOG from the grease interceptor or trap into the City sanitary sewer system. Interceptors and traps shall be cleaned at three-month intervals or less. A longer cleaning interval must be approved by the WRA Director. The owner or operator of an FSE shall employ a waste hauler licensed by the WRA pursuant to Division 6 of this chapter to clean the grease interceptor or trap, provided that the waste hauler personnel performing the cleaning has a current grease hauler certification from the WRA

indicating satisfactory completion of the course of training offered by the WRA on the cleaning of grease interceptors and traps. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

3. Any person who cleans a grease interceptor or trap shall do so in accordance with the following procedures and requirements. The person cleaning the grease interceptor or trap shall:

A. Completely empty and remove the contents (liquids and sludge) of all vaults of the grease interceptor or trap, and remove the grease mat and scrapings from the interior walls. As part of each cleaning of a grease interceptor or trap, or the licensed waste hauler employed by the FSE owner or operator, shall perform the following maintenance activities:

(Paragraph A – Ord. 2022-2100 – Feb. 23 Supp.)

(1) Check that the sanitary "tees" on the inlet and outlet sides of the grease interceptor are not obstructed, loose, or missing.

(2) Verify that the baffle is secure and in place.

(3) Inspect the grease interceptor or trap for any cracks or other defects.

(4) Check that lids are securely and properly seated after completion of cleaning.

B. Not deposit waste and wastewater removed from a grease interceptor or trap back into the grease interceptor or trap from which the waste or wastewater was removed or into any other grease interceptor or trap or drainage fixture connected to the sanitary sewer, for the purpose of reducing the volume of waste and wastewater to be disposed of. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

C. Not introduce enzymes, emulsifying chemicals, hot water or other agents into a grease interceptor or trap to dissolve or emulsify grease or as a grease abatement method. Introduction of bacteria as a grease degradation agent is permitted with prior written approval by the WRA director.

D. Dispose of waste and wastewater removed from a grease interceptor or trap at the WRF or at a facility approved for disposal of such waste by the WRA director. Waste and wastewater removed from a grease interceptor or trap shall not be discharged to any private sanitary or storm sewer or to the City sanitary or storm sewer system. The waste hauler shall provide a copy of the disposal receipt for all waste and wastewater removed from a grease interceptor or trap to the owner or operator of the FSE.

E. Not use an automatic grease removal system to clean a grease interceptor without prior written approval of the WRA Director, and, if the use of an automatic grease removal system is approved, shall operate same in a manner that the grease wastewater discharge limit, as measured from the system's outlet, is consistently achieved. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

(1) The WRA director may make exceptions to the above requirements, or may approve alternative operational requirements or cleaning and maintenance methods, provided that such exceptions or approvals shall be made in writing by the WRA director.

(2) The WRA Director may issue a grease hauler certification upon satisfactory completion of the course of training offered by the

WRA on the proper maintenance and cleaning of grease interceptors and traps, disposal procedures and record keeping. Such certification shall be for a period of five years and shall be in effect for the person receiving such training. Grease haulers certified by the WRA shall be subject to a grease interceptor cleanout inspection by WRA personnel, not less than once every two years, for purposes of the hauler demonstrating its compliance with requirements in this section. Such inspections shall be scheduled at a time which coincides with normal working hours for WRA personnel, shall involve all individuals employed by the same company who have been issued a grease hauler certification by the WRA, and shall be conducted at an FSE within the WRA service area. Failure to follow WRA's cleanout procedures or other requirements of this section may result in fines, additional scheduled cleanout inspections, and loss of grease hauler certification status, individually or company-wide, with the WRA.

(Subparagraph (2) – Ord. 2022-2100 – Feb. 23 Supp.)

101.59 RECORDS AND RECORD KEEPING.

1. Required Records. The owner or operator of an FSE which is required to pass wastewater through a grease interceptor or trap shall maintain a written record of grease interceptor or trap maintenance, including a log showing the dates upon which the grease interceptor or trap was inspected and the estimated amount of FOG present in the grease interceptor or trap at each inspection, the date upon which waste and wastewater was removed from the grease interceptor or trap and disposed of, and the location and means of such disposal of waste and wastewater, and the name and employer or the person or persons performing each of said tasks. The log shall further include a record of the placement of any approved or unapproved additive into the grease interceptor, grease trap or building sewer on a constant, regular or scheduled basis, including the type and amount of additive placed on each such occasion. Only additives approved by the WRA director pursuant to Section 101.58(3)(C) may be used in a grease interceptor.

2. Record Keeping. The log shall at all times be kept and maintained on a day-to-day basis, so as to show a record of waste and wastewater removal, waste and wastewater disposal and approved additive placement for a continuous period of three years. All such records shall be kept secure at the premises of the FSE for a continuous period of three years and shall be made available for non-routine inspection by the City, the WRA and its operating contractor, or the employees and agents of any of them at any time during normal business hours.

101.60 INSPECTION OF GREASE INTERCEPTORS AND RELATED SEWERS AND EQUIPMENT. The owner or operator of an FSE shall:

1. Provide, operate and maintain, at its expense, safe and accessible monitoring facilities (such as a suitable manhole), and shall make such monitoring facilities available for inspection, for routine cleanouts by the owner or operator's licensed grease hauler, and for sampling and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facilities to allow for proper inspection, accurate sampling and preparation of samples for analysis. The monitoring facilities shall be maintained such that the device(s) is readily and

immediately accessible for inspections and cleanouts being free of coverings, building materials, pavements, or any other obstructions. ***(Ord. 2022-2100 – Feb. 23 Supp.)***

2. Shall allow personnel authorized by the WRA director or by the City building official or designee, bearing proper credentials and identification, to enter upon or into any building, facility or property housing an FSE at any reasonable time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review, in accordance with this division.

3. Shall, upon request by the WRA director's authorized representative, open any grease interceptor or grease trap for the purpose of confirming that maintenance frequency is appropriate, that all necessary parts of the installation are in place, including but not limited to, baffles, and effluent tees, and that all grease interceptors, traps, and related equipment and piping is maintained in efficient operating condition.

4. Shall accommodate compliance inspections and sampling events by the authorized representatives of the WRA director or of the City building official. Staff may conduct routine inspections and sampling events of any food service establishment. Non-routine inspections and sampling events shall occur more frequently when there is a history of non-compliance with this division and when blockages occur in the City's sanitary sewer system downstream of the FSE.

101.61 TRIPS CHARGES. The fees for inspection of an FSE shall be as provided in Section 101.61 of the Code and shall be paid within 30 days of the date of the invoice for such fees. A trip charge of $50.00, as referenced in Section 101.61 shall be assessed in conjunction with the violation of any requirement of Section 101.60 which results in the need for WRA personnel to reschedule such inspection of grease interceptor/trap or food service establishment, and shall be paid within 30 days of the date of the invoice for such charge.

(Ord. 2022-2100 – Feb. 23 Supp.)

101.62 ENFORCEMENT. The WRA director is authorized to enforce this division as hereinafter provided. The City building official or designee, or such other governmental official hereafter designated by the WRA, is also authorized to enforce this division.

101.63 NOTICE OF VIOLATION; ADMINISTRATIVE PENALTIES; CORRECTIVE ACTION ORDER.

1. The director, or such other designated officers or officials with enforcement authority as provided in Section 101.62, are authorized to issue a notice of violation imposing an administrative penalty upon any person who fails to perform an act required by this division or who commits an act prohibited by this division. Such notice may include a corrective action order requiring the user to take one or more of the following corrective actions within 30 days:

A. Conform to best management practices;

B. Submit copies of the grease interceptor or trap maintenance log;

C. Develop, submit and implement a FOG compliance plan to be approved by the director or designated enforcement official; or

D. Install a compliant grease interceptor.

2. The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the City Council by resolution.

3. Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice may be by regular mail or by delivery in person.

4. Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within 30 days of its issuance.

5. The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in Section 101.64, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the WRA director determines that immediate enforcement action by misdemeanor or municipal infraction prosecution is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this chapter. A record of all violations, administrative penalties charged or other enforcement actions taken shall be maintained by the WRA for a period of three years.

101.64 PENALTIES.

1. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine or imprisonment or shall be guilty of a municipal infraction punishable by a civil penalty.

2. Any person who fails to comply with a pretreatment standard applicable to an FSE shall be guilty of a municipal infraction punishable by a civil penalty of not more than $1,000.00 for each day the violation exists or continues, as provided by Section 364.22 or 331.307 of the *Code of Iowa*.

3. When enforcement is sought through a municipal infraction proceeding, the director, or such other designated officers or officials with enforcement authority as provided in Section 101.62, may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period specified by the order.

101.65 ORDER TO CEASE OPERATION OF FSE. Where a violation of this division has not been timely corrected, and results in or threatens interference or pass through as herein defined, the WRA director, or such other designated officers or officials with enforcement authority as provided in Section 101.62, shall have the authority to issue an order in writing to the owner or operator of the FSE, ordering such person or persons to cease and desist from further operation of the FSE and from further discharge of wastewater to the sanitary sewer system.

1. The order shall be delivered by personal service unless the owner or operator cannot be found within the City, in which event notice shall be by ordinary mail addressed to the owner's or operator's last known address and by posting a copy of the notice in a conspicuous place upon the premises of the FSE.

2. Operation of the FSE shall cease on the date stated in the order and shall not recommence without the prior written approval of the WRA director.

3. The applicant may make a written request to the director for a reconsideration and hearing on the cease and desist order within 10 days from the issuance of the order, provided, however, that operation of the FSE shall cease pending the outcome of the hearing.

4. The owner's or operator's request for hearing shall identify the appealing party, include the address of the person requesting the hearing and to which all further notices shall be mailed or served, and shall state the basis for the appeal.

5. The hearing shall be scheduled to be held as soon as practicable and no later than 14 days after the request for hearing was filed with the WRA director. The person requesting the hearing shall be notified in writing or by telephone of the date and place of such hearing at least three days in advance thereof. At such hearing, the director and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence, as necessary.

6. The determination by the director or by such other designated officers or officials with enforcement authority as provided in Section 101.62, that the violation occurred shall be considered a final administrative decision, unless appealed to the WRA.

101.66 APPEAL OF CORRECTIVE ACTION ORDER OR CEASE AND DESIST ORDER.

1. Any person aggrieved by a corrective action order or a cease and desist order issued by the WRA director or by such other designated officers or officials with enforcement authority as provided in Section 101.62, may file an appeal and request a ruling that such order be modified or rescinded.

2. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to the WRA within 10 days after the WRA director's issuance of the order. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

A. WRA Appeal Committee
B. Des Moines Metropolitan Wastewater Reclamation Authority
C. 3000 Vandalia Road
D. Des Moines, Iowa 50317

3. The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing party. Such appeal shall be decided by majority vote of the appeal committee. The appeal committee may affirm, modify or rescind the order of the director and shall so state and order in its written decision.

101.67 ADDITIONAL REMEDIES. The WRA or the City is not precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief or for recovery of investigational or remedial costs resulting from a non-complying discharge, in the event that the WRA or the City files a misdemeanor citation, notice of administrative penalty, and/or files a municipal infraction for the same violation of this division.

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DIVISION 6: REGULATION OF HAULED WASTE

101.68 DEFINITIONS. The definitions found in Sections 101.01 and 101.52 shall apply to the provisions of this division, provided however that the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Vehicle" means a commercial device equipped with a tank and used to remove or transport waste.

2. "Waste" means human excreta, water, scum, sludge, septage, FOG, food waste or grease solids, and non-hazardous industrial wastewaters and solids removed from public and private wastewater disposal systems, holding tanks, impervious vaults, portable or chemical toilets, or from devices used to trap grease resulting from food preparation. Waste also means liquid wastes resulting from spill clean-up.

101.69 LICENSE. No waste hauler shall remove waste from within the City or shall dispose of waste, whether from a source inside or outside the City, into the POTW without first obtaining a waste hauler license from the WRA, with the following exceptions:

1. WRA participating communities that operate vehicles to remove waste from their sewer systems.

2. Waste haulers hired by WRA participating communities to remove waste from their sewer systems and which bring no other wastes to the WRF.

3. Waste haulers utilized by industrial users issued a wastewater discharge permit by the WRA.

4. Waste haulers granted temporary authorization by the WRA director in order to deal with an emergency.

101.70 ISSUANCE OF LICENSE; PAYMENT OF BOND REQUIREMENTS. The waste hauler's license shall be issued by the WRA Director upon written application that shall consist of the following minimum requirements:

1. Inspection. The WRA director, upon application, shall inspect the trucks, hoses, valves, and associated equipment of the applicant for a waste hauler's license and determine if they meet the minimum qualifications for complying with the conditions of this division.

2. License Fee and Bond. An application shall require the payment of a fee of $60.00 for each vehicle used by the applicant and the posting of a bond with reasonable surety in a penal sum which shall cover no less than two months of average or estimated treatment at the WRF for the faithful compliance with this division, including prompt payment of treatment costs, surcharges, fees, and fines. Bond amounts shall be up to $100,000.00 but not less than $20,000.00 and structured as follows as required by the WRA Director.

Total Monthly Treatment Fees	Surety Bond Amount
<$10,000	$20,000.00
$10,001 - $20,000	$40,000.00
$20,001 - $40,000	$60,000.00
>$40,001	$100,000.00

1. WRA participating communities that contract with waste haulers in order to clean and rehabilitate storm and sanitary sewers owned by the community or that own and operate waste hauling vehicles may provide proof of self-insurance or provide a letter guaranteeing payment of up to $20,000.00 in lieu of providing a surety bond.

(Subsection 2 – Ord. 2022-2100 – Feb. 23 Supp.)

3. Renewal. A waste hauler license shall expire on June 30 next after its issuance. The renewal application must be made in the same manner as the initial application and must be received by the director 30 days prior to expiration. Failure to apply 30 days prior to expiration may result in an interruption in the license and the privileges of such license.

4. Transferability. Waste hauler licenses are not transferable.

101.71 STANDARDS FOR VEHICLES AND EQUIPMENT. As to all vehicles and equipment used by a waste hauler, the licensee shall:

1. Prevent waste and wastewater from leaking, spilling, or discharging onto roads or rights-of-way.

2. Ensure proper construction and repair of the equipment to allow cleaning.

3. Maintain vehicles and equipment in an essentially rust free and sanitary condition and appearance.

4. Display the business name as it appears on the waste hauler license in three-inch or larger letters on the left and right sides of the vehicle.

101.72 DISPOSAL. Hauled waste shall only be disposed at the WRF at the designated disposal station or as authorized by the Iowa Department of Natural Resources for land application. Waste haulers shall maintain the WRF designated disposal location in a clean and orderly condition to avoid noxious odors and unsanitary conditions. Hours of operation at the WRF disposal station shall be set by the WRA director. In the event of emergency situations, special arrangements between the waste hauler and the WRA director regarding disposal at an alternative disposal site shall be allowed to permit response to such emergency. Any violation of an Iowa Department of Natural Resources rule or regulation for land disposal of hauled wastes by a waste hauler shall be grounds for rejection of a hauled waste load in Section 101.76 by such waste hauler or shall be grounds for denial, suspension and revocation of such waste hauler's license in Section 101.81.

101.73 IDENTIFICATION OF SOURCE.

1. Waste haulers must document the nature and origin of wastes collected and the site and method of disposal for wastes that are removed from any locations or are delivered to the WRF. Such information shall be provided on a manifest form provided by the WRA and shall also include:

A. The name and address of the waste generator(s);

B. The type of waste collected;

C. Any other information consistent with identification and tracking of wastes.

The WRA director or his or her designee shall have the right to verify all information required by this section, including the right to measure, sample and analyze any waste regulated by this division.

2. The waste hauler or waste generator shall obtain approval from the WRA director or his or her designee prior to loading wastes originating from an industrial/commercial source unless prior approval is on record with the WRA. A hauled waste profile form prescribed by the WRA must be completed by the waste generator and submitted to the WRA director or his or her designee for consideration for waste load disposal at the WRF. Such profile form shall include information regarding the waste generator's name, address, phone number, authorized representative, waste description and product information, anticipated volume and frequency of disposals, waste transporter information, process waste characteristics including pollutant concentrations, declarations, certifications, and signature of authorized official.

(Section 101.73 – Ord. 2022-2100 – Feb. 23 Supp.)

101.74 MIXING WASTES. For the purposes of this division, wastes from residential and nonresidential sources shall not be mixed. Wastes from an industrial/commercial source shall not be mixed with wastes of any type from another location. Portable toilet and FSE grease trap wastes may be mixed with similar wastes from different locations. Residential wastes from several sources may be mixed as long as each source is identified. Any tanks used for hauling waste to the WRF or equipment that comes in contact with waste shall not be used for hauling hazardous wastes or hazardous substances, as defined in I.C. § 567.1 et seq., Chapter 131 of the *Iowa Administrative Code* and in 40 CFR 261, or other wastes which may be detrimental to the POTW, the receiving waters, or the health of WRF employees, private contractors, or the public.

(Ord. 2022-2100 – Feb. 23 Supp.)

101.75 STANDARDS OF DISPOSAL AT WRF.

1. Under this division, disposal of wastes at the WRF shall be carried out in accordance with pretreatment standards and requirements established by federal, State, County, and City governments including categorical standards developed for the waste generator's industrial category. The WRA Director may reject wastes from waste haulers who do not comply with this section or with any other section of this division. Waste haulers shall not deliver wastes to the WRF, or to any other disposal location approved by the WRA Director which are:

A. Prohibited by Section 101.10 or exceed the limits found in Sections 101.11, 101.12 and 101.13 of this chapter.

B. Hazardous wastes or hazardous substances as defined in 40 CFR Part 261 or 567 I.A.C., Chapter 131.

C. Originate from mineral oil unless first treated to remove the oil and grease.

D. Not completely identified or are from industrial/commercial sources that are not approved by the WRA Director as required in Section 101.73.

E. Mixed in a manner prohibited in Section 101.74.

F. Wastes other than residential from outside the WRA, except through requests to the WRA Director.

2. All disposal transactions at the WRF shall consist of waste haulers scaling in and scaling out on the WRF scales system. Prior to discharging any contents from their vehicle, a waste hauler shall:

A. Collection onsite at the WRF a sufficient sample of the waste material onboard.

B. Test and record the pH and immediately report any results that do not meet disposal limits as listed in Section 101.10.

C. Document on the WRF manifest all contents of the waste load including waste type, source information, and any other information consistent with identification and tracking of wastes as required in Section 101.73.

D. Request and obtain approval from WRF operations to begin unloading at the WRF digesters.

(Section 101.75 – Ord. 2022-2100 – Feb. 23 Supp.)

101.76 REJECTION OF WASTE LOADS. The WRA director may reject any hauled waste load that violates or is suspected of violating the requirements of this division or that fails to meet any other guidelines established by the WRA director to protect personnel, equipment, and the WRF. Waste haulers must:

1. Remove rejected waste from the WRF.

2. Immediately remove any additional wastes contaminated by the rejected waste while contained at the WRF prior to introduction into the sewer.

3. Properly dispose of all rejected wastes in accordance with State and federal law.

4. Provide the WRA director with a written statement, signed by the waste hauler license holder, stating the location, date, and time the rejected load was disposed of. The statement is due within five calendar days after the waste is rejected.

A vehicle used to haul rejected wastes shall not thereafter be allowed to dispose of additional wastes at the WRF until the statement required by this section is delivered to the WRA director.

101.77 TREATMENT FEES FOR HAULED WASTES.

1. A treatment fee shall be charged per pound of hauled waste disposed of at the WRF and assessed based on the waste type, pollutant loading, approved disposal location, and location of the source material. The fee for treatment shall include electrical, chemical, labor, equipment, fuel, maintenance, and any capital costs associated with the treatment processes utilized. The treatment fee shall reflect a total cost per gallon or per pound of hauled waste equaling the sum of the total cost of pollutants per gallon or per pound plus, if applicable, total cost of flow per gallon, based on: (1) the parameters of chemical oxygen demand (COD), estimated biochemical oxygen demand (BOD), total suspended solids (TSS) and/or total solids (TS), volatile solids (VS), total Kjeldahl nitrogen (TKN), oil and grease (O&G), and, if applicable, total phosphorus (TP) contained in trucked waste to the WRF; (2) net weight of the wasteload in pounds; and (3) the treatment surcharge component rate per pound of pollutant as found in Section 118-352 of this division. Wasteloads disposed of at an unapproved location at the WRF, or containing pollutant concentrations different from typical pollutant concentrations or from original disclosures made during the wasteload approval process, may be subject to the following additional costs: treatment fees, charges, or fines may also be applied pursuant to Section 101.20.

2. Treatment costs shall be reviewed and updated annually per the U.S. Bureau of Labor Statistics Consumer Price Index. The WRA shall provide 30 days' notice prior to assessing updated disposal rates with such notices posted, at a minimum, on the WRA website. The treatment fee for loads originating outside of the WRA participating communities shall be 1.5 times the fee for loads originating within the WRA participating communities unless otherwise approved by the WRA Director.

3. Wasteload disposal weights shall be computed and recorded at the WRF truck sales and the resulting treatment fees shall be paid by the waste hauler or waste generator, at the WRA's discretion, on the basis of monthly billings by the finance department. Limits of credit shall not exceed 60 days. Abuse of such credit shall be grounds for liability on the waste hauler's or waste generator's bond and for refusal of disposal services to any waste hauler or waste generator under this division.

4. Waste haulers and waste generators may elect to have their routine waste streams tested for actual concentration at their expense as set forth in Section 101.20 of the Code, and as approved by the WRA Director. When a waste hauler or waste generator has elected to test for actual concentration, the treatment fee will be based on the actual concentration whether it be higher or lower than the average concentration treatment fee. Said testing will be done at least semi-annually or as required by the WRA Director.

(Section 101.77 – Ord. 2022-2100 – Feb. 23 Supp.)

101.78 ENFORCEMENT. The WRA director, the City building official, or such other governmental official hereafter designated by the WRA, shall be authorized to enforce this division as hereinafter provided.

101.79 NOTICE OF VIOLATION; ADMINISTRATIVE PENALTIES; CORRECTIVE ACTION ORDER.

1. The director, or such other designated officers or officials with enforcement authority as provided in Section 118-511 of the Wastewater Reclamation Authority/City of Des Moines Municipal Code, are authorized to issue a notice of violation imposing an administrative penalty upon any person who fails to perform an act required by this division or who commits an act prohibited by this division.

2. The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the City Council by resolution.

3. Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice may be by regular mail or by delivery in person.

4. Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within 30 days of its issuance.

5. The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in Section 101.80, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the WRA director determines that immediate enforcement action by misdemeanor or municipal infraction prosecution is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this chapter. The WRA shall maintain a record of all violations, administrative penalties charged or other enforcement actions taken.

101.80 PENALTIES.

1. Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine or imprisonment or shall be guilty of a municipal infraction punishable by a civil penalty.

2. Any person who violates a discharge prohibition set forth in Section 101.10, or discharges in excess of local limits as set forth in Section 118-353 of the Wastewater Reclamation Authority/City of Des Moines Municipal Code, shall be guilty of an environmental violation punishable as provided by Section 364.22 of the *Code of Iowa*.

101.81 DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.

1. Grounds for denial, suspension or revocation of waste haulers license. The WRA director may deny, suspend or revoke the waste hauler license and/or grease hauler certification of any waste hauler who violates any provision of this division or any condition of its license, or who commits any of the following violations, or who does not meet the following requirements:

A. Violation of any term, condition or requirement of this division, the license, or applicable State of Iowa or federal laws or regulations.

B. Obtaining a license by misrepresentation.

C. Falsification of, failure to complete or failure to fully disclose all relevant facts in a license application.

D. Failure to pay fees, administrative penalties or fines.

E. Failure to report a spill to the WRA.

F. Using wash down water or otherwise diluting the permitted waste for the purpose of meeting discharge limitations or requirements.

G. Falsification of, failure to complete or failure to fully disclose all relevant facts in any report, manifest information or record required by the license or this division.

H. Tampering with samples or sampling equipment intended to accurately reflect the contents of each hauled waste load.

I. Refusing to allow WRA personnel timely access to the waste hauler's facility premises, vehicles, or records.

J. Failure to perform as required under a corrective action order or compliance schedule issued by the WRA director.

K. Failure to correct any violation of this division within 30 days after notice by the WRA Director.

L. Failure to immediately correct any violation of this division if the condition constituting the violation is declared a threat to public health, safety or welfare by the WRA director and the director orders immediate correction.

2. Procedure for denial, suspension or revocation of waste hauler's license. The procedure for denial, suspension or revocation of a waste hauler's license shall be as follows:

A. Any license issued to a waste hauler pursuant to this division may be denied, suspended or revoked by written order of the WRA director specifying the grounds for such action as outlined in Subsection 1 of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to deny, suspend or revoke a waste hauler's license, the WRA director shall cause a notice of hearing to be prepared, specifying the violations of Subsection 1 of this section which are deemed to have occurred, and the time, date and place that such hearing will be held. The notice shall be sent to the waste hauler by regular mail addressed to the waste hauler's address listed on the waste hauler's license a minimum of 10 days prior to the date set for hearing, and shall be deemed delivered when placed in the mail.

B. If after such a hearing the WRA director makes a finding based on substantial evidence that one or more violations under Subsection 1 of this section have occurred as alleged, the director may deny issuance of the license, suspend the license for a fixed period, or may issue an order immediately revoking the license and ordering the waste hauler to discontinue hauling waste to the WRF or any other disposal locations approved by the director. The determination whether to deny issuance of a license, to suspend a license, or to revoke a license, shall be in the discretion of the director and shall be dependent upon the circumstances surrounding the violations of Subsection 1 of this section and the severity of those violations. If the waste hauler does not appear for the hearing, the director shall issue the order revoking the waste hauler's license and ordering the cessation of delivery of hauled waste at the WRF or any other disposal locations approved by the director, which order shall take effect immediately.

C. The decision and order of the WRA director to deny issuance, to suspend or to revoke the license of a waste hauler may be appealed to the WRA appeal committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the director's entry of the order of denial, suspension or revocation. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

D. WRA Appeal Committee
E. Des Moines Metropolitan Wastewater Reclamation Authority
F. 3000 Vandalia Road
G. Des Moines, Iowa 50317

H. The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing waste hauler. Such appeal shall be decided by majority vote of the appeal committee. If the appeal committee affirms the order of the WRA director denying issuance, suspending or revoking the license and ordering the cessation of waste deliveries at the WRF or other approved locations, the appeal committee shall so state and order in its written decision.

D. A waste hauler whose license has been denied or revoked shall not be eligible for issuance or reinstatement of its license until 30 days after the violating conditions have been corrected to the satisfaction of the director.

101.82 ALTERNATIVE RELIEF. Neither the WRA nor the City is precluded from seeking alternative relief from the court, including an order for abatement or injunctive relief, in the event that the WRA or the City files a misdemeanor citation, notice of administrative penalty, and/or files a municipal infraction for the same violation of this division, or in the event the WRA seeks to deny, suspend or revoke the waste hauler's license.

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CHAPTER 103

STORMWATER MANAGEMENT UTILITY

103.01 DEFINITIONS. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Equivalent residential unit" or "ERU" means the average impervious area of a residential developed property per dwelling unit located within the City as periodically determined and established as provided in this chapter, which has been determined by the City to be 3,500 square feet of impervious surface area.

2. "Residences" means all residential properties, excluding apartment buildings, which will be treated as commercial properties.

3. "Stormwater drainage system" means the system of publicly or privately owned or operated rivers, creeks, ditches, drainage channels, pipes, basins, street gutters, and lakes within the City through which or into which stormwater runoff, surface water, or subsurface water is conveyed or deposited.

4. "Stormwater management utility" or "utility" means the enterprise fund utility created by this chapter to operate, maintain, and improve the system for such other purposes as stated in this chapter.

5. "User" means any person owning, operating, or otherwise responsible for property within the City which directly or indirectly discharges stormwater or surface or subsurface waters to any portion of the stormwater management system, including direct or indirect discharges to the City's stormwater drainage system, or which is directly or indirectly protected by the City's flood protection stormwater or surface or subsurface waters to the City's stormwater drainage system.

103.02 STORMWATER SERVICE CHARGES REQUIRED. Every customer whose premises is served by a connection with the stormwater management system and facilities of the City, either directly or indirectly, shall pay to the City stormwater service charges hereinafter established and specific for the purpose of contributing towards the cost of construction, maintenance, and operation of the stormwater management system and facilities.

103.03 BASIC RATE. Each customer whose property lies within the corporate limits of the City shall pay to the City, as a part of the customers combined service account with the City at the same time payment for other City utilities are made, the following charges per ERU associated with the customer's property:

1. Residential. A storm sewer availability charge will be charged at $3.00 per month.

2. Commercial/Industrial. A storm sewer availability charge will be charged at $3.00 per ERU per month up to a maximum of 65 ERUs.

103.04 COLLECTION OF FEES. Bills for the collection of stormwater service charges shall be included on the monthly utility bill. The fee shall be due at the same time as water and sewer. Payment shall be made to the City Clerk, and all bills shall become delinquent following the same schedule as water and sewer.

103.05 DISCONTINUING SERVICE AND FEES. Any resident who fails to remit the total amount of the charges set out in the utility bill, including the fees for stormwater service charges shall be sent a notice. In the event payment is not received as outlined in said notice, the City shall have the right to discontinue services to the resident including the collection of recyclables, solid waste, and deliverance of water and, pursuant to Section 92.08, provisions relating to lien notices shall also apply in the event of a delinquent account.

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CHAPTER 105

SOLID WASTE CONTROL

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

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

1. "Collector" means any person authorized to gather solid waste from public and private places.

2. "Discard" means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])

3. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.

4. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(567 IAC 100.2)

5. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(567 IAC 20.2)

6. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])

7. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

8. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste, and sewage treatment waste in dry or semisolid form.

(567 IAC 100.2)

9. "Residential premises" means a single-family dwelling and any multiple-family dwelling up to and including four 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.

(567 IAC 20.2)

11. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(567 IAC 100.2)

12. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(567 IAC 100.2)

13. "Sanitary disposal project" means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. "Sanitary disposal project" does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

(Code of Iowa, Sec. 455B.301)

14. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the *Atomic Energy Act of 1954*, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa.*

G. Post-use polymers or recoverable feedstocks that are any of the following:

(1) Processed at a pyrolysis or gasification facility.

(2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

15. "Toxic and hazardous waste" means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

16. "Yard waste" means any debris such as grass clippings, leaves, garden waste, pruning, weeds and brush, and tree branches. Yard waste does not include tree stumps.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause, or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *International Fire Code*. This section applies to the burning of yard waste that has been removed from and grown on the property. Any official ban on burning issued by the Fire Chief or by Polk County shall supersede this provision. The following open burning shall be allowed subject to any adopted policy of the City Council:

1. Burning of landscape waste, prairie grass, or other waste within an agricultural zone, or within other areas with unusual circumstances to be determined at the discretion of the Fire Chief, provided that a permit has been approved by the Fire Chief. Burning is not allowed within 250 feet of a residential structure. Burning is subject to all policies established by the City Council.

2. Burning of recreational fires within a fire pit or other protective structure.

3. In the event of a natural disaster, burning as approved by the Fire Chief.

4. The Fire Chief is further authorized to permit an open fire for the following purposes and subject to the provisions set forth in this subsection:

A. City crews operating under the authority of the department of public services.

B. The instruction of public employees in methods of fighting fires.

C. On private property used for industrial purposes for the instruction of employees in the methods of fighting fires.

D. For public gatherings under the legitimate sponsorship of civic, fraternal, religious, educational, or similar organizations.

E. Fires set for the purpose of a bonafide training of public or industrial employees in firefighting methods, provided the Fire Chief received a written request at least one week before such action commences and is in compliance with the rules established by the State Department of Natural Resources (DNR).

5. All permits for an open fire shall be filed with the Fire Chief two weeks prior to the planned date of the fire.

Any person who commits an act prohibited by this section shall be guilty of a misdemeanor punishable by fine as provided in Section 1.14 of this Code of Ordinances or shall be deemed to have committed a municipal infraction punishable by a civil penalty as provided in Chapter 3 of this Code of Ordinances. The first offense within a calendar year shall be deemed the first offense punishable by a civil penalty not to exceed $50.00. The second and each subsequent offense within a calendar year shall be a repeat offense, punishable by a civil penalty not to exceed $100.00. The Fire Chief (or designated representative) or any police officer is authorized to issue a civil citation to anyone violating this section indicating such person is in violation of this section and is subject to the penalties provided for in this section.

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or placed in acceptable containers and set out for collection.

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

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

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources.

(567 IAC 100.2)
(567 IAC 102.13[2] and 400 IAC 27.14[2])

105.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they are reusable, portable containers, or heavy-duty disposable garbage bags, shall be of sufficient capacity and leakproof and waterproof. Disposable containers shall

be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste placed in containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

105.10 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Metro Solid Waste Agency are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 COLLECTION SERVICE. The collection and transportation of solid waste within the City shall be performed in accordance with the provisions of this code or the regulations of the Polk County Board of Health or of any other appropriate government agency. A single collector shall be authorized by the City to collect solid waste from residential premises, a single collector shall be authorized by the City to collect yard waste from residential premises and a single collector shall be authorized by the City to collect recyclable material from residential premises as set forth in this Code of Ordinances.

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 so as to prevent leaking of oil or hydraulic fluid onto the City streets.

(567 IAC 104.9)

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

106.04 FREQUENCY OF COLLECTION. All solid waste, yard waste, and recyclable materials shall be collected, on the same day, by the respective authorized collectors, from residential premises at least once each week on a schedule approved by the Council, and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week. Collection shall not begin before 7:00 a.m. or continue after 7:00 p.m. on the same day. Yard waste shall be collected between March 15 and November 30.

106.05 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the authorized single residential collector.

106.06 YARD WASTE COLLECTION. The single collector authorized by the City to collect yard waste from residential premises shall haul the yard waste to a compost site approved by the City and shall keep an accurate accounting of the amount of such yard waste. The collector shall submit a monthly written report to the City detailing the amount of such yard waste that has been collected and delivered for composting during the reporting year. No collector shall mix yard waste and solid waste together. Any hauler who delivers for disposal

yard waste and solid waste mixed together shall be subject to penalties as provided in Section 106.14 of this chapter.

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

106.08 UNIFORM COLLECTION FROM RESIDENTIAL PREMISES. The collection of solid waste and recyclable material from residential premises and the maintenance of the availability of such service, whether or not the service is used regularly or at all by the occupant of the residential premises, are hereby declared a benefit to such premises at least equal to the monthly charge specified for the service. Such charge shall be paid whether the occupant uses the residential premises solid waste and recyclable material collection service or not. Nothing herein is to be construed so as to prevent the owner from transporting solid waste or yard waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of at City-approved composting stations or neighborhood collection sites in accordance with policies established by the composting station.

106.09 COMMERCIAL GARBAGE HAULER PERMIT. No person shall engage in the business of collecting, transporting, processing, or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual permit in accordance with the following:

1. Application. Application for a solid waste collector's permit shall be made to the Clerk and provide the following:

   A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

   B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

   C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

   D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

   A. Bodily Injury: – $300,000.00 per person.

   B. – $500,000.00 per occurrence.

   C. Property Damage: – $500,000.00

1. Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation, or other termination of coverage not less than 10 days prior to the effective date of such action.

3. Permit Fee. A permit fee in the amount of $100.00 shall accompany the application. In the event the requested permit is not granted, the fee paid shall be refunded to the applicant.

4. Permit Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process, or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested permit shall be issued to be effective for a period of one year from the date approved.

5. Permit Renewal. An annual permit may be renewed simply upon payment of the required fee, and receipt of current public liability insurance policy carried by the applicant in conformance with Subsection 2 of this section, and provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment, and facilities in use.

6. Permit Not Transferable. No permit authorized by this chapter may be transferred to another person.

106.10 CONTAINER SIZE AND CHARGES FOR RESIDENTIAL PREMISES. Container size and charges for solid waste collection and disposal from residential premises shall be fixed and determined by the Council. Such container size and charges may from time to time be amended by the Council by resolution. A copy of the resolution setting forth the currently effective size and charges shall be kept on file in the office of the City Clerk and be open to inspection during regular business hours.

106.11 BILLING FOR SERVICE TO RESIDENTIAL PREMISES. Billing and payment for the collection of residential solid waste shall be in accordance with the following:

1. Fee Charged. A fee shall be charged to each dwelling unit each month for the collection of residential solid waste, which fee shall include the fee paid to the collector authorized to collect solid waste from residential premises, and the costs of the City for performing the billing service. The fee to be charged to each dwelling unit shall be established from time to time. Each dwelling unit shall receive one waste container for solid waste. If a resident requests a second waste container, a second monthly fee will be charged to the resident. For yard waste, a resident must purchase Compost It! stickers to be attached to each bag of yard waste or each bundle of brush set out for collection. A sticker shall also be purchased each season by each resident participating in the premium yard waste collection program.

2. Bills Issued. The Clerk shall prepare and issue bills for the collection of residential solid waste each month. The fee for the collection of residential solid waste shall be included on the bill sent by the Clerk to each dwelling unit for water service and sewer service, as a combined service account.

3. Bills Payable. Bills for the collection of solid waste shall be due and payable at the office of the Clerk by the date set out in it. If a bill for the combined service account is not paid in full, the amount paid shall be applied pro rata to the amount billed for water service and for sewer service, and for the collection of residential solid waste.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of 10 percent of the amount due shall be added to each delinquent bill.

5. Returned Checks. A fee, as set forth in the fee schedule established by the City Council, shall be charged for all checks not honored by the bank on which the checks are written.

106.12 SERVICE DISCONTINUED. Collection of residential solid waste shall be discontinued in accordance with the following:

1. Notice. Within five days following the date that bills for water service and the collection of residential solid waste are due and payable, the Clerk shall send a written notice to each delinquent customer that water service, sewer service and the collection of residential solid waste and recyclable material may be discontinued if payment, including late payment charges, is not received within 10 days from the date the notice is mailed. The notice shall afford the customer the opportunity to request a hearing before the City Clerk prior to the discontinuance of service. Such written notice shall be sent by first class mail. If the customer is a tenant and if the owner or landlord of the property has made written request for notice, the written notice sent to the customer shall also be given to the owner or landlord.

2. Service Discontinued. If payment for all of the services billed by the City on the combined service account is not received within 10 days following the date the written notice is sent to the customer and payment arrangements have not been made pursuant to a hearing before the City Clerk, the supply of water to the customer may be shut off and collection of solid waste and recyclable material may be discontinued for nonpayment.

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

(Code of Iowa, Sec. 384.84)

106.14 PENALTY. Any person violating any provisions of this article shall be subject to a civil penalty as set forth in the schedule of civil penalties in this code. Each day that a municipal infraction occurs and/or is permitted to exist constitutes a separate offense.

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CHAPTER 107

RECYCLING

107.01 DEFINITIONS.

1. "Collection of recyclables" means the pickup, handling, and sorting of recyclable material at the curbside of those residences designated by the City.

2. "Recyclable materials" means old newspapers, old corrugated containers, magazines, catalogs, junk mail, kraft bags, bi-metal and ferrous cans, aluminum cans, clear glass containers, high density, polyethylene, and polyethylene terephthalate, whether alone or in combination and any other materials that may be added to this list by Metro Waste Authority as outlined in the *Curb It!* program.

3. "Residences" means all residential properties, excluding apartment buildings.

107.02 SERVICES TO BE PROVIDED.

1. All residences shall be provided curb-side collection services of recyclable materials bi-weekly.

2. On each regular collection day, the hauler shall collect from residences all collectable, recyclable material that is in approved storage containers in the proper set out location as determined by the Metro Waste Authority as outlined in the *Curb It!* program. Any improper items shall be left by the hauler in the home storage container furnished to the resident.

107.03 COLLECTION. The collection of recyclable materials for all residences shall be as set out in the *Curb It!* program by Metro Waste Authority.

107.04 DUTY TO RECYCLE. Each resident of the City shall, prior to the disposal of any solid waste generated by them, separate from said solid waste all recyclable materials and deposit said recyclable materials curb side at the appropriate time and place for collection under this chapter.

107.05 RULES AND REGULATIONS. Metro Waste Authority shall provide the rules and regulations for the collection of all Recyclable Materials including acceptable approved containers, type of vehicles, manner of transporting and the designation of the processing facility where said materials are to be delivered as outlined in the *Curb It!* program.

107.06 RATES. The *Curb It!* recycling services shall be furnished at a monthly rate in the amount as invoiced by Metro Waste Authority to the City per household.

107.07 COLLECTION OF FEES. Bills for the collection of recyclable materials shall be included on the resident's utility bill. The fee shall be due at the same time as water and sewer.

Payment shall be made to the City Clerk and all bills shall become delinquent following the same schedule as water and sewer.

107.08 DISCONTINUING SERVICE AND FEES. Any resident who fails to remit the total amount of the charges set out in the water bill, including the fees for collection of recyclable materials shall be sent a notice. In the event payment is not received as outlined in said notice, the City shall have the right to discontinue services to the resident including the collection of recyclables and deliverance of water pursuant to the provisions set out in Chapter 92.

107.09 RESPONSIBILITY FOR PAYMENT OF BILL. The owner of a property receiving collection service shall be responsible for the payment of all charges for such collection service.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company," and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Polk City, Iowa, hereinafter called the "City," a gas distribution system, to furnish natural gas along, under and upon the streets, rights of way, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a 20-year period from and after the effective date of the ordinance codified in this chapter[†], provided, however, that either the City or the Company may, during the first 90 days following the tenth and fifteenth anniversaries of the effective date of the franchise, provide written notice to the other party of its desire to amend the franchise. The parties shall negotiate these amendments in good faith for a period of up to 90 days following receipt of notice. If, at the conclusion of the negotiation period, the City determines in good faith that the franchise, if continued without amendment, will have a material or significant adverse impact on the City or the Company's electric customers located within the corporate limits of the City, the City may terminate the franchise. The City shall have the burden to objectively demonstrate the material or significant adverse impact. Failure to amend the franchise at the first option does not render invalid the City's second option to amend the franchise.

110.02 STATE CODE RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* 2013, or as subsequently amended or changed.

110.03 CONSTRUCTION AND MAINTENANCE. The Company shall furnish reasonably, adequate and efficient gas service to the residents of the City and shall maintain its systems in reasonable repair and working order and provide adequate facilities for such maintenance. The Company's plant and equipment, including all transmission lines and other distribution facilities, shall be installed in accordance with good utility practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with the rules of the Iowa Utilities Board or its successor, and the *International Fuel Gas Code* so as not to endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and

[†] **EDITOR'S NOTE:** Ordinance No. 2014-500, adopting a natural gas franchise for the City, was passed and adopted on August 11, 2014.

structures. The erection, installation, construction, replacement, removal, repair, maintenance, and operation of the gas system shall be in accordance with all applicable laws, regulations and codes of the State and all applicable ordinances, regulations and codes of the City. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be located as to cause minimum interference with the properties of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. All said structures, lines and equipment shall be placed so as not to interfere with the construction of any water pipes, drain or sewer, which have been or may hereafter be located by authority of the City.

110.04 RELOCATION OF INSTALLATIONS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation. The City shall not require the Company to relocate facilities for a project that is intended to benefit a private party.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys, and public places for the installation of gas pipes, conduits, or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with City, State or federal rules, regulations or laws. With any new construction or relocation projects, the Company agrees that within 14 days of the completion of the construction, all restorations will be made, or the Company hereby acknowledges the right of the City to perform these restorations and charge the Company for the same. During such 14-day period, the Company may ask the City to extend the 14-day period and the Company and the City shall negotiate a reasonable time for conclusion of the work.

110.06 UTILITY EASEMENTS. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley, or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than 60-days' advance notice of the City's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for existing Company facilities.

110.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City at any time during the previous five years.

110.08 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs, or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents. The Company shall purchase and maintain insurance to protect the City throughout the duration of the franchise. Coverage may be provided under a program of self-insurance. The Company's indemnification obligations under the franchise shall survive the expiration, cancellation, or termination of the franchise.

110.09 INFORMATION. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right-of-way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under State or federal law or both. Therefore, the City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by State or federal law on other grounds and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time.

110.10 MAINTAIN FACILITIES. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.11 QUANTITY AND QUALITY. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

110.12 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

110.13 FRANCHISE FEE. In consideration of the right and franchise granted to the Company in Section 110.01 herein, a franchise fee is hereby imposed equal to one percent (1%) of the gross receipts minus uncollectable amounts derived by the Company in the City for the delivery and sale of natural gas, effective beginning March 1, 2020.

1. The amount of franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit collected franchise fees to the City on a quarterly basis, within 30 days after the last day of the last revenue month of each quarter of the calendar year (i.e. remitted by April 30, July 31, October 31, and January 31). The City shall not modify the level of the franchise fee more frequently than once in a 12-month period.

2. The City shall be solely responsible for the property use of any amounts collected as franchise fees, and shall only use such franchise fees for purposes allowed by Iowa law and as set forth in the Revenue Purpose Statement previously adopted by the City.

3. The franchise fee shall apply to all customers' bills in accordance with Iowa Code Chapters 364.2(f) and 423B.5, except for the City's bills which shall be exempt from the franchise fee.

4. Upon receipt of a final and unappealable order or approval authorizing annexation or changes in the corporate boundaries of the City, the City Clerk shall provide written notification to the Company of such annexation or change in the corporate boundaries of the City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate boundaries of the City, commencing no more than 90 days after receipt of the written notice and City's verification of the area added to the City.

5. To fulfill the purpose and intent of this section, the City and the Company may enter into an agreement addressing the implementation of the collection of the franchise fee, which agreement shall be approved by resolution of the City.

110.14 PLANS AND PERMITS. All non-emergency installation, replacement or upgrade of pipes, plants, equipment, and distribution facilities with any utility system shall require submission of detailed plans to the City, clearly indicating proposed work, and all applicable City permits shall be approved by the City before proposed utility work commences.

110.15 FORFEITURE AND TERMINATION. The violation of any material portion of the franchise by the Company, or its failure to perform any of the provisions of the franchise, may be cause for forfeiture of the franchise and the termination of all rights under this chapter. If the City determines there to be a default under the franchise, it may provide a written notice to the Company describing the default, stating whether a forfeiture and termination of the franchise will be sought after the cure period, and proposing a reasonable time to cure the default, which shall be not less than 60 days. Company may respond to such notice, proposing a different time to accomplish the cure of the default. If Company has not cured the default within the agreed-upon cure period and any extension thereto, the City may proceed to terminate the franchise agreement and the same shall be deemed forfeited by the Company as provided above. The franchise shall apply and bind the City and the Company, their successors and assigns, provided that any assignment by the Company shall be subject to the approval of the Council by resolution, which shall not be unreasonably withheld, except that no consent shall be required for any assignment or transfer by merger, consolidation or reorganization. The City shall have 60 days after the effective date of the assignment to adopt the resolution. If the City fails to adopt a resolution affirming or rejecting the assignment during the 60-day period, the assignment shall be deemed approved. The Company shall provide notice to the City in the event of an assignment of the franchise.

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CHAPTER 111

MIDAMERICAN ENERGY COMPANY ELECTRIC FRANCHISE

111.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company," and its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Polk City, Iowa, hereinafter called the "City," a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, rights of way, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a 20-year period from and after the effective date of the ordinance codified in this chapter[†], provided, however, that either the City or the Company may, during the first 90 days following the tenth and fifteenth anniversaries of the effective date of the franchise, provide written notice to the other party of its desire to amend the franchise. The parties shall negotiate these amendments in good faith for a period of up to 90 days following receipt of notice. If, at the conclusion of the negotiation period, the City determines in good faith that the franchise, if continued without amendment, will have a material or significant adverse impact on the City or the Company's electric customers located within the corporate limits of the City, the City may terminate the franchise. The City shall have the burden to objectively demonstrate the material or significant adverse impact. Failure to amend the franchise at the first option does not render invalid the City's second option to amend the franchise.

111.02 STATE CODE RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* 2013 or as subsequently amended or changed.

111.03 CONSTRUCTION AND MAINTENANCE. The Company shall furnish reasonably adequate and efficient electric service to the residents of the City and shall maintain its systems in reasonable repair and working order and provide adequate facilities for such maintenance. The Company's plant and equipment, including all transmission lines and other distribution facilities, shall be installed in accordance with good utility practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with the rules of the Iowa Utilities Board or its successor, and the *National Electrical*

[†] **EDITOR'S NOTE:** Ordinance No. 2014-400, adopting an electric franchise for the City, was passed and adopted on August 11, 2014.

Safety Code, so as not to endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. The erection, installation, construction, replacement, removal, repair, maintenance, and operation of the electric system shall be in accordance with all applicable laws, regulations and codes of the State and all applicable ordinances, regulations and codes of the City. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be located as to cause minimum reasonable interference with the properties of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as to excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed so as not to interfere with the construction of any water pipes, drain or sewer which have been or may hereafter be located by authority of the City.

111.04 TREES. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and State law, rules, and regulations.

111.05 RELOCATION OF INSTALLATIONS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation. The City shall not require the Company to relocate facilities for a project that is primarily intended to benefit a private party. With any new construction or relocation projects, the Company agrees that within 14 days of the completion of the construction, it shall complete all restorations. During such 14-day period, the Company may ask the City to extend that 14-day period and Company and City shall negotiate a reasonable time for conclusion of the work. If Company has not completed all restorations within the agreed-upon time, Company acknowledges the rights of the City to perform these restorations and charge Company for the same.

111.06 EXCAVATIONS. In making excavations in any streets, avenues, alleys, rights of way and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the condition as existed prior to the Company excavation. The Company shall not be required to restore or modify public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with City, State, or federal rules, regulations or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

111.07 UTILITY EASEMENTS. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities

on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley, or public ground where the Company has electric facilities in the vicinity, the City shall provide Company with not less than 60-days' advance notice of the City's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public ground, the City shall at its cost and expense obtain easements for existing Company facilities.

111.08 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City in the previous five years.

111.09 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs, or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents. The Company shall purchase and maintain insurance to protect the City and name the City throughout the duration of the franchise. Coverage may be provided under a program of self-insurance. The Company's indemnification obligations under the franchise shall survive the expiration, cancellation, or termination of the franchise.

111.10 INFORMATION. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right-of-way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under State or federal law, or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right-of-way which may constitute a trade secret or which may otherwise be protected from public disclosure by State or federal law. Furthermore, the City agrees that no documents, maps, or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time.

111.11 MAINTAIN FACILITIES. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

111.12 QUANTITY AND QUALITY. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

111.13 FRANCHISE FEE. In consideration of the right and franchise granted to the Company in Section 111.01 herein, a franchise fee is hereby imposed equal to one percent of

the gross receipts minus uncollectable amounts derived by the Company in the City for the delivery and sale of electric energy, beginning on March 1, 2020.

1. The amount of franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit collected franchise fees to the City on a quarterly basis, within 30 days after the last day of the last revenue month of each quarter of the calendar year (i.e. remitted by April 30, July 31, October 31 and January 31). The City shall not modify the level of the franchise fee more frequently than once in any 12-month period.

2. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such franchise fees for purposes allowed by Iowa law and as set forth in the Revenue Purpose Statement previously adopted by the City.

3. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapters 364.2(f) and 423B.5, except for the City's bills which shall be exempt from the franchise fee.

4. Upon receipt of a final and unappealable order or approval authorizing annexation or changes in the corporate boundaries of the City, the City Clerk shall provide written notification to the Company of such annexation or change in the corporate boundaries of the City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate boundaries of the City, commencing no more than 90 days after receipt of the written notice and City's verification of the area added to the City.

5. To fulfill the purpose and intent of this section, the City and the Company may enter into an agreement addressing the implementation of the collection of the franchise fee, which agreement shall be approved by resolution of the City.

111.14 PLANS AND PERMITS. All non-emergency installation, replacement or upgrade of cables, wires and conduits in connection with any utility system shall require submission of detailed plans to the City, of detailed plans clearly indicating proposed work and all applicable City permits shall be approved by the City before proposed utility work commences. Company agrees to continue its policy of undergrounding facilities in City limits where undergrounding practices exist or in new construction areas. In City limit areas where existing overheard facilities are prevalent, the Company reserves the right to upgrade or replace existing equipment with overhead facilities, subject to negotiations with the City. Where possible, following the procedures and standards applicable to such developments, the parties will develop plans to facilitate the placing of overhead electric facilities underground in conjunction with City projects in the public rights-of-way. Any conversion of overhead electric distribution facilities to underground electric distribution facilities shall comply with the Iowa Utilities Board rules and regulations, Company tariffs applicable to City-required conversions of overhead facilities to underground facilities, the *National Electric Code* and the *National Electric Safety Codes* as adopted by the Iowa Utilities Board. The Company shall not be responsible for costs incurred by customers to convert or to upgrade customer wiring due to a change in the electrical distribution system. On the date of transfer from an overhead electric distribution system to an underground electric distribution system, as agreed to by the City and Company, the City shall be responsible to ensure that all structures receiving electrical service are capable, in compliance with the *National Electric Code*, of receiving service from an underground electric distribution system. The Company shall not be liable for expenses incurred by any customer resulting from rewiring or replacement of utilization equipment costs as a result of the inability of a customer to receive electricity from an underground electric distribution system.

111.15 FORFEITURE AND TERMINATION. The continuing violation of any material portion of the franchise by the Company, or its failure to perform any of the provisions of the franchise, may be cause for forfeiture of the franchise and the termination of all rights under this chapter. If the City determines there to be a default under the franchise, it may provide a written notice to the Company, describing the default, stating whether a forfeiture and termination of the franchise will be sought after the cure period, and proposing a reasonable time to sure the default, which shall not be less than 60 days from the date of the written notice. Company may respond to such notice, agreeing to the proposed cure period or proposing a different time to accomplish the cure of the default. If Company has not cured the default within the agreed-upon cure period and any extensions thereto, the City may proceed to terminate the franchise agreement and the same shall be deemed forfeited by the Company as provided above.

111.16 ASSIGNMENT. The franchise shall apply and bind the City and the Company, their successors and assigns, provided that any assignment by the Company shall be subject to the approval of the Council by resolution, which shall not be unreasonably withheld, except that no consent shall be required for any assignment or transfer by merger, consolidation or reorganization. The City shall have 60 days after the effective date of the assignment to adopt the resolution. If the City fails to adopt a resolution affirming or rejecting the assignment during the 60-day period, the assignment shall be deemed approved. The Company shall provide notice to the City in the event of an assignment of the franchise.

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CHAPTER 112

MIDLAND POWER COOPERATIVE ELECTRIC FRANCHISE

112.01 FRANCHISE GRANTED. Midland Power Cooperative, an Iowa cooperative association, is hereby granted and vested with the right, franchise and privilege for a period of 25 years from the effective date of the ordinance codified in this chapter[†] to acquire, construct, operate and maintain in the City the necessary facilities for the production, distribution, transmission and sale of electricity for public and private use and to construct and maintain along, upon, across and under the streets, highways, avenues, alleys, bridges, and public places the necessary fixtures and equipment for such purposes.

112.02 TERMS AND CONDITIONS. The Grantee shall be subject to the following terms and conditions during the term of the franchise granted hereunder:

1. Service Requirements. The Grantee shall furnish reasonable, adequate and efficient electric service to the residents of the City and shall maintain its system in reasonable repair and working order and provide adequate facilities for such maintenance. Nothing in this section shall require the Grantee to provide electric service unless the services requested are reasonably within its range of performance and there is a reasonable expectation that the consumption of electricity will warrant the necessary expenditure.

2. Ownership, Installation and Maintenance of Service Facilities. The Grantee's plant and equipment, including all street lights, transmission lines and other distribution facilities, shall be owned by the Grantee, installed in accordance with good engineering practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. The erection, installation, construction, replacement, removal, repair, maintenance and operation of the electric system shall be in accordance with all applicable laws, regulations and codes of the State and application ordinances, regulations and codes of the City.

3. Transmission and Distribution Facilities - General Location Requirements. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

4. Conditions for Use and Occupancy of City Rights-of-Way and Utility Easements. The Grantee shall be allowed to use and occupy the City rights-of-way for

[†] **EDITOR'S NOTE:** Ordinance No 2003-1000, adopting an electric franchise, was passed and adopted on December 29, 2003.

the emplacement of its equipment; provided, however, Grantee shall be required to use subdivision utility easements to the extent such easements provide for the construction and operation of electric equipment therein. Further provided, in such use and occupancy of City rights-of-way and subdivisions utility easements, Grantee shall be subject to all generally applicable City ordinances and obligations therein including, but not limited to, those provisions of this Code of Ordinances regulating the use and occupancy of such rights-of-way, pertaining to excavations and pertaining to streets and sidewalks, and further provided that Grantee shall not construct any plant or system equipment until Grantee has secured the necessary permits from the City, or other applicable governmental authorities. Grantee shall have the right to trim brush, remove obstructions and do all other things reasonably necessary to prevent interference with its use and occupancy of said rights of way and easements.

5. Grantee's Duty to Restore Ground Surface. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall at its own cost and expense and in a manner approved by the City Engineer, replace and restore all sod, paving, sidewalk, driveway or surface of any street or alley disturbed in as good a condition as before said work was commenced.

6. Alteration of Grade. If at any time the City elects to alter or change the grade of any street, alley or public way, and such alteration requires the relocation of Grantee's facilities located along, upon, across and under the streets, highways, avenues, alleys, bridges and public places of the City, the Grantee, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cable, underground conduits, manholes, or other distribution fixtures at its own expense.

7. Street Obstructions. Any opening or obstruction in the streets or other public ways made by the Grantee in the course of its operation, pursuant to the authority granted hereunder, shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights.

8. Mapping Data. Grantee shall provide to the City Engineer information indicating the horizontal and approximate vertical location, relative to the boundaries of the right-of-way, of all equipment which it owns or over which it has control and which is located in any right-of-way. Mapping data shall be provided with the specificity and in the format requested by the City Engineer for inclusion in the mapping system used by the City Engineer. Grantee shall submit complete and accurate mapping data for all of its equipment at the time any permit is sought. Within six months of the acquisition, installation or construction of additional equipment or any relocation, abandonment or disuse of existing equipment, the Grantee shall supplement the mapping information required herein.

9. Insurance Requirements. The Grantee shall purchase and maintain insurance to protect the Grantee and the City throughout the duration of the franchise. Said insurance shall be provided by insurance companies approved by the insurance commissioner of the State of Iowa and having no less than an A.M. Best rating of "A-." All policies shall be written on a per-occurrence basis, not a claims-made basis, and in form and amounts and with companies satisfactory to the City. Certificates of insurance confirming required insurance coverage shall be submitted to the City prior to contract execution or commencement of work and/or services.

A. Worker's Compensation Insurance: The Grantee shall procure and maintain during the life of the franchise Worker's Compensation Insurance,

including Employer's Liability Coverage, in accordance with all applicable statutes of the State of Iowa. The coverage limits shall include $500,000.00 each accident for Bodily Injury by Accident, $500,000.00 each accident for Bodily Injury by Disease, and $500,000.00 policy limit for Bodily Injury by Disease.

B. Commercial General Liability Insurance: The Grantee shall procure and maintain during the life of the franchise Commercial General Liability insurance on a per-occurrence basis with limits of liability not less than $1,000,000.00 per occurrence and $2,000,000.00 aggregate combined single limit including; Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (i) Contractual Liability, (ii) Premises and Operations, (iii) Products and Completed Operations, (iv) Independent Contractor's Coverage, (v) Personal and Advertising Injury, and (vi) Explosion, Collapse and Underground [XCU], where applicable. Coverage shall be no less comprehensive and no more restrictive than the coverage provided by a standard form Commercial General Liability Policy [ISO CG 00 0110 93] with standard exclusions. Any additional exclusions shall be clearly identified on the Certificate of Insurance and shall be subject to the review and approval of the City.

C. Automobile Liability Insurance: The Grantee shall procure and maintain during the life of this franchise Automobile Liability Insurance with limits of liability of not less than $1,000,000.00 per occurrence combined single limit including Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

D. Umbrella/Excess Insurance: The coverage specified in B and C above may be satisfied with a combination of primary and Umbrella/Excess Insurance. The Umbrella/Excess Insurance shall also be written on a per-occurrence basis and shall include the same endorsement as required of the primary policies.

E. Insurance for Other Losses: The Grantee shall assume, during the life of the franchise, full responsibility for all loss or damage from any cause whatsoever to any property brought onto City property that is owned or rented by the Grantee, or by any of the Grantee's employees, agents, subcontractors, suppliers or their employees, to the extent that such property is utilized in carrying out the provisions of the franchise, except to the extent caused by the City's acts or negligence.

F. Changes in Coverage, Limits, Endorsements and Terms. The City shall be notified of any changes in coverage, limits, endorsements and terms.

G. Subcontractors: The Grantee shall require that any of its agents and subcontractors who perform work and/or services pursuant to the provisions of the franchise meet the same insurance requirements as are required of the Grantee.

H. Proof of Insurance: The Grantee shall provide to and maintain on a current basis with the City Certificates of Insurance evidencing all required insurance coverage as provided in A through D above utilizing the latest version of the ACORD form. Any deductible or self-insured retention must be

disclosed on the face of the Certificate of Insurance and must be accepted by the City.

10. Indemnification. To the fullest extent permitted by law, the Grantee agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees, volunteers, and others working on behalf of the City against any and all claims, demands, suits, or loss, including any and all outlay and expense connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City, by reason of personal injury, including bodily injury or death, and property damages, including loss of use thereof, which arises out of or is in any way connected or associated with the work and/or services provided by the Grantee pursuant to the provisions of the franchise, except to the extent caused by the City's acts or negligence. It is the intention of the parties that the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City shall not be liable or in any way responsible for injury, damage, liability, loss, or expense resulting to the Grantee, its officers, employees, subcontractors, and others affiliated with the Grantee due to accidents, mishaps, misconduct, negligence, or injuries either to person or property caused by the work and/or services performed by the Grantee under the franchise, except to the extent caused by the City's acts or negligence. The Grantee expressly agrees to pay the City for all damages caused to the City's premises resulting from the activities of the Grantee, its officers, employees, subcontractors, and others affiliated with the Grantee.

A. The indemnification obligations of Grantee are not limited in any way by the amount or type of damages or compensation payable by or for Grantee under Worker's Compensation, disability, or other employee benefit acts, acceptance of insurance certificates required under the franchise, or the terms, applicability, or limitations of any insurance held by Grantee.

B. Grantor does not, and shall not, waive any rights against Grantee which it may have by reasons of the indemnification provided for in this chapter, because of the acceptance by City, or the deposit with City by Grantee, of any of the insurance policies described in this chapter.

C. The requirements of indemnification shall not be a waiver of any right that the City would have to assert defenses on its own behalf under State or federal law.

D. The Grantee's indemnification obligations under this chapter shall survive the expiration, cancellation, or termination of the Franchise Agreement.

E. To the extent permitted by law, the Grantee hereby releases the City, its elected and appointed officials, employees, volunteers, and others working on behalf of the City, from any and all liability or responsibility to the Grantee or anyone claiming through or under the Grantee, for any loss or damage to property caused by fire or other casualty, except to the extent such fire or other casualty shall have been caused by the fault or negligence of the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City. This provision shall be applicable and in full force and effect only with respect to loss or damages occurring during the time of the Grantee's occupancy or use.

11. Electric Revenue Tax. If, during the term of the franchise, there shall be enacted by the Iowa General Assembly a valid taxing statute authorizing the City to collect a tax on the electric revenue received by Grantee from its customers in the City, then if such tax is levied by the City, said Grantee will include, subject to the approval of the Iowa Utilities Board, such tax as a separate item on bills to its customers within the City, and remit the sums collected to the City under the terms and provisions of such enacted statute.

12. Termination of Franchise.

A. Grounds for Revocation. In addition to any other lawful remedies the City may have, it reserves the right to revoke the franchise and rescind all rights and privileges associated therewith in the event of a material breach of the franchise. A material breach or cause for revocation, by way of example, would include:

(1) If Grantee should default in the performance of any of its material obligations under the franchise and fails to cure the default within 60 days after receipt of written notice of the default from the City or such longer time as specified by the City.

(2) If the Grantee should fail to provide or maintain in full force and effect the insurance and indemnification coverage as required in this chapter.

(3) If a petition is filed by or against Grantee under the Bankruptcy Act, as amended, or any other insolvency or creditors' rights law, State or federal, and the Grantee shall fail to have it dismissed.

(4) If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets.

(5) If the Grantee makes an assignment for the benefit of creditors.

(6) To the extent an order or ruling has effect on the franchise, if the Grantee violates any order or ruling of the City, or any State or federal regulatory body having jurisdiction over the Grantee, unless the Grantee is lawfully contesting the legality or applicability of such order or ruling and has received a stay from the appropriate forum.

(7) If the Grantee practices any fraud or deceit upon the subscribers, the City, or the general public.

(8) If Grantee misrepresented a material fact in the application for or negotiation of the franchise or in any other appearance before or document submitted to the City Council or to subscribers.

(9) If Grantee violates any material rule, order, regulation or determination of the City Council made pursuant to its police powers or any material provision of this chapter.

B. Procedure Prior to Revocation. The City shall give at least 60 days' written notice to the Grantee citing the reasons alleged to constitute cause for revocation, if the reason is of a nature that can be cured, set a reasonable time in which the Grantee must remedy the cause. If, during the 60-day period (or such longer period as the City may set), the cause shall be cured to the satisfaction of the City, the City may declare the notice to be null and void. If

the Grantee fails to remedy the cause within the time specified or if the breach is of a nature that cannot be remedied, the City Council may, after public hearing and making a written finding of a material violation, revoke the franchise. In any event, before the franchise may be terminated, the Grantee shall be provided with an opportunity to be heard before the City Council.

C. Effect of Pending Litigation. Unless a stay is issued by a court of appropriate jurisdiction, pending litigation or any appeal to any regulatory body or court having jurisdiction over the Grantee shall not excuse the Grantee from the performance of its obligations under this chapter or other applicable laws. Failure of the Grantee to perform material obligations because of pending litigation or petition may result in forfeiture or revocation pursuant to the provisions of this section.

D. Restoration of Public and Private Property. In removing its plants, structures and equipment, the Grantee shall refill at its own expense, any excavation made by it and shall leave all public ways and places and private property in as good condition as existed prior to Grantee's removal of its equipment and appliances. The City shall inspect and approve the condition of the public ways and public places. Liability insurance and the indemnity provided in this chapter shall continue in full force and effect during the period of removal.

E. Restoration by City; Reimbursement of Costs. If the Grantee fails to complete any work required by or any work required by other law or ordinance within the time established and to the satisfaction of the City, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within 30 days after receipt of any itemized list of such costs.

F. Lesser Sanctions. Nothing shall prohibit the City from imposing lesser sanctions or censures than revocation.

112.03 ASSIGNMENT OF FRANCHISE. Grantee shall not voluntarily or involuntarily, by operation of law or otherwise, sell, assign, transfer, lease, sublet or otherwise dispose of, in whole or in part, the franchise and/or electric system or any of the rights or privileges granted by the franchise, to any entity not controlled by Grantee without the prior written consent of the City, and then only upon such terms and conditions as may be lawfully prescribed by the City, which consent shall not be unreasonably denied or delayed provided that any transferee shall agree to accept all of Grantee's obligations under this chapter. Any attempt to sell, assign, transfer, lease, sublet or otherwise dispose of all or any part of the franchise and/or electric system or Grantee's rights therein without the prior written consent of the City shall be null and void and shall be grounds for termination of the franchise.

112.04 FRANCHISE FEE. In consideration of the right and franchise granted to the Company in Section 112.01 herein, a franchise fee is hereby imposed equal to one percent of the gross receipts minus uncollectable amounts derived by the Company in the City for the delivery and sale of electric energy, effective beginning on March 1, 2020.

1. The amount of franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit collected franchise fees to the City on a quarterly basis, within 30 days after the last day of the last revenue month of each quarter of the calendar year (i.e. remitted by April 30, July 31, October 31, and January 31). The City

shall not modify the level of the franchise fee more frequently than once in any 12-month period.

2. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such franchise fees for purposes allowed by Iowa law and as set forth in the Revenue Purpose Statement previously adopted by the City.

3. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapters 364.2(f) and 423B.5, except for the City's bills which shall be exempt from the franchise fee.

4. Upon receipt of a final and unappealable order or approval authorizing annexation or changes in the corporate boundaries of the City, the City Clerk shall provide written notification to the Company of such annexation or change in the corporate boundaries of the City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate boundaries of the City, commencing no more than 90 days after receipt of the written notice and City's verification of the area added to the City.

5. To fulfill the purpose and intent of this section, the City and the Company may enter into an agreement addressing the implementation of the collection of the franchise fee, which agreement shall be approved by resolution of the City.

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CHAPTER 114

CABLE TELEVISION FRANCHISE

114.01 GRANT OF FRANCHISE. A nonexclusive right is hereby granted to Heritage Cablevision, Inc. (hereinafter referred to as "Heritage"), its successors and assigns, to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of 25 years[†], in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. To sell and supply audio and video communication service to persons within the City;

2. To use public property within the City;

3. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

114.02 ASSIGNMENT OR TRANSFER. Heritage shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that Heritage shall have the right to assign the franchise to a corporation wholly owned by Heritage or to a limited partnership of which Heritage or other wholly owned subsidiary of Heritage Communications, Inc. is a general partner without prior consent of the City.

[†] **EDITOR'S NOTE:** Ordinance No. 81-117, adopting a cable television franchise for the City, was passed and adopted on July 13, 1981.

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CHAPTER 115

CABLE TELEVISION REGULATIONS

115.01 DEFINITIONS. The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings ascribed to them in this section:

1. "Cable television system" means any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for services.

2. "Channel" means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.

3. "FCC" means the Federal Communications Commission.

4. "Franchise" means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.

5. "Grantee" means Heritage Communications, Inc. d/b/a Heritage Cablevision, Inc., a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term "Grantee" shall mean and include the Grantee, its officers, agents, employees, servants, and independent contractors.

6. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

7. "Public property" means all property, real, personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

115.02 USE OF PROPERTY. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereinafter be consistent with generally accepted principles applicable to the operation of a cable television system, subject, however, to the following restrictions:

1. The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereinafter be applicable thereto.

2. The Grantee shall not use or occupy or permit public property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:

A. Impair the owner's interest in or title thereto;

B. Impair any mortgage or lease as may now or hereafter be applicable thereto;

C. Adversely affect the then value or character thereof;

D. Cause or be likely to cause structural damage thereto, or any part thereof;

E. Cause or be likely to cause any damage or injury to any utility service available thereto;

F. Create a public or private nuisance, cause any offensive or obnoxious vibration, noise, odor or undesirable effect or interference with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;

G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or.

H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

115.03 TAXES. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees, and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

115.04 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance. The amount of such insurance shall be not less than $100,000.00 as to any one person, $300,000.00 as to any one occurrence for injury or death to persons, and $100,000.00 for damages to property, with so-called umbrella coverage of at least $5,000,000.00.

2. Worker's Compensation Insurance as provided by the law of the State of Iowa as amended.

3. Automobile Insurance with limits of not less than $100,000.00/$300,000.00 of public liability coverage and automobile property damage insurance with a limit of not

less than $100,000.00 covering all automotive equipment, with so-called umbrella coverage of at least $5,000,000.00.

All of said insurance coverage shall provide a 10-day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

115.05 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as non-structural, shall be made promptly, as and when needed.

115.06 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever indemnifies the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage or injury to any property whatsoever, however arising from or related to or connected with, directly or indirectly: (i) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (ii) the non-observance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, and/or (iii) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (iv) the granting of the franchise.

115.07 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person, company, or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the Grantee, or to a limited partnership of which the Grantee or other wholly owned subsidiary of Heritage Communications, Inc., is a general partner, without prior consent of the City.

115.08 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee, or other such officer shall not be discharged within 60 days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

115.09 DEFAULT OF GRANTEE. In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within 30 days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by

giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

115.10 TERMINATION. Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

115.11 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

115.12 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE. During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property. Grantee shall install utility vaults rather than pedistals in all instances where such installation is possible. ***(Ord. 2023-8100 – Nov. 23 Supp.)***

115.13 INTERFERENCE. The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the Grantee.

115.14 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent, or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises within the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses or franchises have both installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

115.15 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway, or other surfacing, the Grantee shall, at its own expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good condition as before said work was commenced.

115.16 ALTERATION OF GRADE. In the event that, during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice to the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

115.17 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its

cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five-days' advance notice to arrange for such temporary cable changes.

115.18 TREE TRIMMING. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

115.19 LINE EXTENSIONS. It shall be the obligation of company to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically non-compensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, the Grantee shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification, where there is an average of 50 homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

115.20 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the Grantee.

115.21 PERFORMANCE STANDARDS. The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

115.22 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

115.23 INSTALLATION AND MAINTENANCE OF TERMINALS IN CITY BUILDINGS AND SCHOOLS. During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location within such buildings as may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

115.24 TELECAST OF EDUCATIONAL ACTIVITIES. The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

115.25 PROGRAM ALTERATION. Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

115.26 SUBSCRIBER RATES AND CHARGES. Except as otherwise provided in the franchise, the Grantee shall have the right, privilege, and authority to charge the rates and charges fixed in this section to its subscribers for its services. Multi-user rates and charges may be negotiated between the Grantee and the subscriber, but in no event shall the multi-user rates and charges for any subscriber exceed the aggregate of rates and charges which would be charged to the multi-user if computed on the basis of single-user rates and charges.

115.27 CHANGE OF SUBSCRIBER RATES AND CHARGES.

1. Grantee's rates and charges presently in effect for installation, moving of equipment and for basic monthly cable television service are hereby approved by the City. A current schedule of rates will be kept on file with the Clerk.

2. For the purposes of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval of the City.

3. Grantee shall have the right to change the rates for basic monthly cable television service, provided any increase does not exceed the increase in the Consumer Price Index for the previous 12 months as determined by the Bureau of Labor Statistics. Should Grantee wish to increase rates beyond the Consumer Price Index increase, approval shall rest with the Council. Such approval will be given only if the Grantee proves that the increase will result in improved cable television service to the community or permit Grantee a fair rate of return on its investment.

4. Before approving an increase in excess of that permitted by Subsection 3, the City shall hold a public hearing thereupon, and shall cause to be published for two consecutive weeks in a newspaper of general circulation in the City a public notice setting forth the proposed rates and charges and the date, time, and place of the public hearing. At such public hearing, any interested party shall have the right to give testimony and present evidence on the rates and charges proposed.

5. Before instituting an increase to or less than the Consumer Price Index increase, Grantee will furnish to the Council a copy of the new rates and charges, as well as information regarding Bureau of Labor Statistics figures on the Consumer Price Index. Such notification shall precede any increase by not less than 30 days and not more than 60 days.

The Grantee shall pay all costs and expenses incurred by the City in connection with said application and said hearing.

115.28 SERVICE RULES AND REGULATIONS. The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

115.29 SERVICE AGREEMENTS. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

115.30 PAYMENTS TO CITY. The Grantee shall pay to the City one percent of its annual "basic monthly cable television service" revenue for the service rendered to customers located within the City. All payments as required by the Grantee to the City shall be made annually and shall be due 45 days after the close of the year.

115.31 INJURY TO PROPERTY OF GRANTEE. No person shall wrongfully or lawfully injure the property of the Grantee.

115.32 INTERCEPTING SIGNALS OF GRANTEE. No person shall receive or intercept any cable television signals originated by and transmitted through cable of Grantee without the consent of the Grantee.

115.33 FILING REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

115.34 FILING OF MAPS AND PLATS. On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

115.35 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall file with the City copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

115.36 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

115.37 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

115.38 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

115.39 ARBITRATION. Any controversy between the City and the Grantee regarding the rights, duties or liabilities or either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceeding under the Section 115.10. Such arbitration shall be before three disinterested arbitrators, one named by the City, one named by the Grantee, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State of Iowa.

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CHAPTER 116

REGULATION OF CABLE TELEVISION RATES

116.01 AUTHORITY. The City has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission (FCC), concerning Cable Rate Regulation, 47 C.F.R. §§76.900 *et. seq*., as they currently read and hereafter may be amended, which are herewith incorporated by reference.

116.02 RATE REGULATION PROCEEDINGS. Any rate regulation proceedings conducted hereunder shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the City or its designee, the cable operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by the City, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

1. The City shall publish notice as provided in Section 362.3 of the *Code of Iowa* and shall mail, by certified mail, to the cable operator a notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.

2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the City is subject to review by the FCC.

3. The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The City may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individuals or entity. If the City or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may announce the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.

4. In the course of the rate regulation proceeding, the City may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The City may request proprietary information, provided that the City shall consider a timely request from the cable operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the cable operator.

6. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by the City to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

7. Upon termination of the rate regulation proceeding, the City shall adopt and release a written decision as to whether or not the rate or proposed rate increase is reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

8. The City may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase.

9. Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.

10. The City shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the *Communications Act of 1934*, as amended, and the FCC Rules and Regulations. Any information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

116.03 CERTIFICATION. The City shall file with the FCC the required certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the City shall notify the cable operator that the City has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

116.04 NOTICE OF RATE CHANGE. With regard to the cable programming service tier, as defined by the *Communications Act of 1934*, as amended, and the FCC Rules and Regulations, and over which the City is not empowered to exercise rate regulation, the cable operator shall give notice to the City of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five business days after the change becomes effective.

116.05 DELEGATION OF POWER. The City may delegate its powers to enforce this chapter to municipal employees or officers (the "cable official"). The cable official will have the authority to:

1. Administer oaths and affirmations;

2. Issue subpoenas;

3. Examine witnesses;

4. Rule upon questions of evidence;

5. Take or cause depositions to be taken;

6. Conduct proceedings in accordance with this chapter;

7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and

9. Take actions and make decisions or recommend decisions in conformity with this chapter.

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CHAPTER 117

CABLE TELEVISION CUSTOMER SERVICE STANDARDS

117.01 AUTHORITY. This chapter is adopted under, and pursuant to, the authority of the *Cable Television Consumer Protection and Competition Act* of 1992.

117.02 DEFINITIONS. As used in this chapter the following words and phrases have the following meanings:

1. "Basic cable rates" means the monthly charges for a subscription to the basic cable tier and the associated equipment.

2. "Basic cable tier" means a separately available service tier to which subscription is required for access to any other tier of service.

3. "Cable operator" means any person:

   A. Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system; or

   B. Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

4. "Normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

5. "Normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

6. "Service interruption" means the loss of picture or sound on one or more cable channels.

117.03 STANDARDS. All cable operators operating within the City shall comply with the following customer service standards:

1. Cable System Office Hours and Telephone Availability.

   A. The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to subscribers 24 hours a day, seven days a week. Trained company representatives will be available to

respond to customer inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

B. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer times shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis.

C. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

D. Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.

E. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

2. Installations, Outages, and Service Calls. Under normal operating conditions, each of the following four standards will be met no less than 95 percent of the time measured on a quarterly basis:

A. Standard installation will be performed within seven business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

B. Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct the service problems the next business day after notification of the service problem.

C. Appointment scheduling alternatives for installations, service calls, and installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

D. An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

E. If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

3. Communications Between the Cable Operators and Cable Subscribers.

A. Notifications to Subscribers. The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request: (i) products and services offered; (ii) prices and options for programming services and conditions of subscription to programming and other services; (iii) installation

and service maintenance policies; (iv) instructions on how to use the cable service; (v) channel positions of programming carried on the system; and (vi) billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office. Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by the preceding paragraph.

B. Billing. Bills will be clear, concise, and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

C. Refunds. Refund checks will be issued promptly, but no later than either: (i) the customer's next billing cycle following resolution of the request or 30 days, whichever is earlier, or (ii) the return of the equipment supplied by the cable operator if service is terminated.

D. Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

117.04 VIOLATIONS; NOTICE; HEARING. Whenever the City determines that a cable operator is violating, or has violated, any of the customer service standards set forth in Section 117.03, the City shall give written notice by certified mail to the cable operator specifying the violation or violations. The cable operator shall respond in writing to such notice within 10 days following receipt of the same. Such response shall admit or deny the violation and shall contain such explanation as the cable operator desires. The cable operator may also request a hearing before the Council at which time it shall have an opportunity to be heard and to present evidence concerning the alleged violation. Such request shall be included in the response. A failure by the cable operator to respond within the time specified shall be deemed an admission of the violation and the cable operator shall have no further opportunity for hearing. If the cable operator requires additional time to make its response it shall make a request therefor in writing specifying the reason additional time is needed and shall request an additional specified time within which to make its response. Such request shall be made within the initial time for response as provided above. If such request is granted the City shall so notify the cable operator in writing and the cable operator shall makes its response within the time requested. If the request is denied, the City shall so notify the cable operator in writing, in which case the cable operator shall respond within 10 days following receipt of notice of the denial. Following consideration of any response and any hearing thereon, the Council shall take whatever action it deems appropriate under the circumstances, including, but not limited to, imposition of the penalties provided for in this chapter.

117.05 PENALTIES. If after notice and opportunity for hearing as prescribed in Section 117.04, the City determines that the cable operator is, or has, violated any of the provisions of this chapter, the City may order the cable operator to reduce the rate for basic cable tier service by10 percent until such time as the City is satisfied that the cable operator is in full compliance with the provisions of this chapter. In the case of the violations which are corrected prior to

determination by the City that a violation did occur, the City may order the cable operator to reduce such rates for a period of time equal to the period of time during which the violation existed. Additionally, and not in substitution of the foregoing, any violation of the provisions of this chapter is a municipal infraction subject to imposition of the penalties prescribed therefor in this Code of Ordinances.

117.06 ENFORCEMENT. The City shall have the right to enforce this chapter by action at law or in equity and shall have, in addition to and not in substitution of the remedies provided for herein, all remedies, legal or equitable, which may be available under any applicable federal, State, or local statute, rule, or regulation.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

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

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

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

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

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

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a 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. 2023-9400 – Nov. 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])

(Section 120.05 – Ord. 2023-9400 – Nov. 23 Supp.)

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "Alternative nicotine product" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the *Federal Food, Drug, and Cosmetic Act*.

2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.

3. "Place of business" means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.

4. "Retailer" means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.

5. "Self-service display" means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

6. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

7. "Vapor product" means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. "Vapor product" includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the *Federal Food, Drug, and Cosmetic Act*.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	$ 75.00
October, November, or December	$ 56.25
January, February, or March	$ 37.50
April, May, or June	$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit. ***(Ord. 2023-9400 – Nov. 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. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of $300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 60 days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.

3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE AND BOND REQUIRED.

1. 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.

2. No license shall be issued until the applicant has delivered to the City Clerk a cash bond for no less than $200.00 per license or $1,000.00 for an employer employing a group of five or more license applicants.

A. Use of Bond. The bond shall be held to indemnify and pay the City any penalties or costs incurred in the enforcement of any of the sections of this chapter, and to indemnify or reimburse any purchaser for damages recovered pursuant to a judgment of the court as a result of misrepresentation related to

the goods or services sold by a licensee, provided that the action by the purchaser must be commenced within three months from the date of purchase.

B. Release of Bond. The balance of the bond shall be released by the City Clerk and returned to the applicant or employer upon request by the applicant or employer at any time more than four months after expiration of the license for which the cash bond was provided. Except as otherwise provided by court order, the City Clerk shall not release any bond during the pendency of any action in State or federal court seeking a judgment upon a claim eligible for payment from the bond.

122.04 APPLICATION FOR LICENSE.

1. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall be accompanied by a $15.00 application fee and set forth the following information:

A. Applicant's name, e-mail address (if any), permanent and local addresses, and local phone number or cell phone number;

B. Business address, business e-mail address (if any), and business phone number (if any);

C. The nature of the applicant's business;

D. The last three places of such business;

E. The length of time sought to be covered by the license;

F. Applicant's Federal Identification Number and the Federal Identification Number of any business for which applicant claims to be peddling as an agent, employee, or otherwise;

G. An Iowa sales tax permit number or a letter from the Iowa Department of Revenue confirming a sales tax permit is not required;

H. A Department of Criminal Investigation criminal history report/record for applicant from the State of applicant's residence for the previous five years, including pending charges, dated no more than 30 days prior to the date of the application;

I. A criminal background check from the State of Iowa for applicant and any additional individuals listed on application, dated no more than one year prior to the date of the application;

J. Whether applicant has been listed on any sex offender registry within the last five years;

K. Whether applicant has had a peddlers license suspended, revoked, or denied by this or any other city in the last five years and the reasons therefore;

L. The dates of any previous peddlers licenses issued by the City Clerk; and

M. A list of any vehicles used in the business and the license plate number of any such vehicles.

2. Upon receipt of the application and accompanying criminal background check, the City Clerk shall conduct an investigation under the following procedures prior to issuing a license:

A. The City Clerk shall refer the application and criminal background check provided by the applicant to the Police Chief, who shall make an investigation of the character and reputation of the persons who will conduct business within the City, to the extent he believes necessary for the protection of the public welfare, except that prior misconduct cannot serve as a basis for denial of a license.

B. The Police Chief shall endorse the application with his approval or disapproval and forward such endorsed application to the City Clerk.

C. If the application has been approved by the Police Chief, the City Clerk may issue a license to the applicant upon the payment of all license and application fees, bonds, and compliance with all other conditions provided in this Code.

D. If the application has not been approved by the Police Chief, the City Clerk shall not issue a license unless and until the causes for such disapproval are eliminated.

E. When causes for disapproval are eliminated, the applicant may resubmit to the Clerk and the Clerk shall forward the amended application to the Police Chief for investigation in the same manner as submission of the initial application set forth herein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. For each person actually soliciting (principal or agent), a fee of $100.00 per year.

2. Peddlers or Transient Merchants.

A. For one day.....$ 50.00

B. For one week.....$ 100.00

C. For up to six months.....$ 200.00

D. For one year or any major part thereof.....$ 300.00

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 request, leave a copy of the license with each prospective customer with whom the peddler speaks while peddling 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. Any

misrepresentation in the displaying of licenses issued under this chapter shall subject the licensee to revocation in addition to any claim in State or federal court by an injured purchaser.

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 10:00 a.m. and 8:00 p.m.

122.11 REVOCATION OF LICENSE. The Clerk or the Police Chief or Police Chief's designee may summarily suspend or revoke any license issued under this chapter by issuance of personal service of the Notice of Revocation on the licensee or on an officer or employee of the licensee or, if personal service cannot be effected, by mailing the notice by certified mail, return receipt requested, to the licensee's last known mailing address 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, including conduct prohibited by Section 122.20, 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 license shall stand revoked unless, within five days after receipt of the Notice of Revocation from the Clerk, the licensee files a written request for a public hearing on the revocation.

122.12 NOTICE. The Notice of Revocation sent to or served upon the licensee shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and advise that the time for requesting a hearing will expire within five days of the date of service or certified mail receipt of the notice. The license shall be suspended until such time as a hearing is held by the request of the licensee.

122.13 HEARING. If timely requested in accordance with Section 122.11, 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, request a hearing and fail to appear without good cause, the Clerk may proceed to hold the decision to revoke the license as final and no appeal by the licensee will be heard in accordance with Section 122.15.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least $5.00 of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the North Polk 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. City sponsored and/or community events held on City property.

8. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

122.20 PROHIBITED ACTS.

1. No peddler shall conduct peddling with any person situated in a motor vehicle upon any public street, alley, driveway access, or public way.

2. No peddler shall conduct peddling upon any part of the public right-of-way along a parade route on the day of any permitted parade.

3. No peddler shall conduct peddling within 1,000 feet of the perimeter of a street closure, or inside such perimeter, for an event where a street use permit has been issued unless written permission from the street use permit holder has been obtained.

4. No peddler shall conduct peddling between the hours of 8:00 p.m. and 10:00 a.m.

5. No peddler shall do business or attempt to do business upon any property on which a notice is posted prohibiting peddling or soliciting.

6. No peddler shall harass, intimidate, coerce, annoy, disrespect, alarm, or threaten any individual to induce a sale.

7. No peddler shall falsely or fraudulently misrepresent the quality, character, or quantity of any article, item, or commodity offered for sale or sell any unwholesome or tainted food or foodstuffs.

8. No peddler shall conduct business in such a manner as to endanger the public health, welfare, or safety.

122.21 FIREWORKS LICENSE. Notwithstanding anything contained in this chapter, the sale of First-Class Consumer Fireworks and Second-Class Consumer Fireworks as defined by Section 727.2 of the *Code of Iowa* shall not be subject to this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building, or similar structure to be moved. Structures or parts of structures less than 15 feet wide and less than 13 and one-half feet high are exempt from the provisions of this chapter.

123.03 APPLICATION. Any person desiring a house moving permit as required herein shall file an application with the Public Works Director at least seven days prior to the commencement of the work. Such application shall contain:

1. The date or dates and time of moving the house, structure, or building.

2. The detailed statement setting forth the proposed route to be followed in moving the structure, the equipment to be used, and specifying the person in charge of the moving operation.

3. The location of the premises to which the structure is to be moved and the zoning classification thereof.

4. The name of the owner of the structure and the name of the owner of the premises to which it is being moved showing that the applicant is entitled to move the house.

5. A plot plan of the location to which the structure is to be moved, showing the exact proposed location of the structure, the boundaries of the lot upon which the structure is to be placed, and the dimensions of said lot.

6. A statement showing the maximum length and width (including eaves) and loaded height of the structure to be moved.

7. An agreement that the house mover shall indemnify and hold the City harmless from any claims or damages for injury to person or property resulting from the moving of the structure for which the permit is requested.

8. An agreement that the applicant shall immediately report any damage done by the moving operation to any street, sidewalk, alley, curb, highway, tree, or other public property and that the applicant will upon demand pay the cost of repair occasioned by said damage to the City.

123.04 BOND REQUIRED. The applicant for a house mover's permit shall file with the application a bond, with an approved corporate surety in the penal sum of $100,000.00, conditioned that all work done under such permit shall be done in good and workmanlike manner, and that the applicant will pay to the City or to any person injured all damages for injuries to person or property, including but not limited to damages to any street, curb, sidewalk, or any other public property caused by negligence, fault, or mismanagement of cause in doing work under such permit.

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 – $1,000,000.00 per person; $1,000,000.00 per accident.
2. Property Damage – $250,000.00 per accident.

123.06 PERMIT FEE. A permit fee of $100.00 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 the filing of the application with the Public Works Director, payment of the fee, filing of the bond, acquisition of an insurance policy as herein required, and approval by the Public Works Director, a house moving permit shall be issued by the City in accordance with the provisions of this chapter.

123.08 DENIAL OF PERMIT. When in the judgment of the Public Works Director the proposed work will result in an undue hazard to traffic or undue damage to streets, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons therefor endorsed upon the application.

123.09 RESTRICTIONS. A permit issued pursuant to this chapter may be restricted in that the Public Works Director may require the Police Chief to escort the house being moved and may restrict or specify the cost of these requirements shall be borne by the house mover.

123.10 EQUIPMENT. All equipment used in the moving operation must be equipped with adequate warning flares and lights. A house mover shall at all times comply with the provisions of State law pertaining to wheel loadings. The house mover shall not use any equipment which travels upon the streets, highways, alleys, sidewalk, or other public grounds that is not equipped with rubber tires.

123.11 PLACEMENT OF EQUIPMENT. All caster wheels or other rolling gear shall be placed under the house, structure, or building to be moved in such a manner that the measurement of the maximum outside width of such casters, wheels, or rolling gear shall be at least two feet less than the width of the traveled portion of the roadway upon which the house structure or building is to be moved.

123.12 DAMAGES. The house mover shall report any damages done to any street, highway, alley, sidewalk, curb, tree, telephone or light poles or wires, or to any other public or private property, except property owned by the house mover or the structure being moved, to the Public Works Director within 12 hours after the occurrence. The house mover shall, upon demand,

pay any damages resulting from an injury to any person or property. Nothing herein shall be construed to prevent the house mover from contesting any claim in good faith in any court.

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CHAPTER 125

MOBILE FOOD VENDORS

125.01 DEFINITION. A mobile food vendor is a person engaged in the business of selling food or beverages from a mobile food unit.

125.02 MOBILE FOOD UNITS.

1. Mobile Food Unit Licensing. It shall be unlawful for any person to engage in the sale of food or beverages to the public from a temporary or mobile facility within the corporate limits of the city of Polk City without first obtaining a mobile food unit license from the city, in addition to any other state, federal, or county permits, certifications, and licenses.

A. A mobile food unit license is an annual license that expires on April 15 each year and must be renewed prior to the first event after that date.

B. A three-day mobile food unit license is available for a specific three-day period.

C. Each mobile food unit shall be licensed separately. No license transfer is allowed.

D. Although certain activities may be exempt from the licensing requirements of this chapter, any food service to the public in the City of Polk City is expected to comply with all other local, county, and State requirements for health inspections, licensing, safety, and fire code requirements.

E. The following shall be exempt from this requirement:

(1) Catering businesses.

(2) Grilling and food preparation activities of brick and mortar establishments on the establishment's premises for immediate consumption by patrons or employees.

(3) Concession stands associated with sports or recreational venues that have been approved as part of a site plan or permitted conditional use permit for the venue.

2. License/Inspection Fee(s). At the time of the submittal of a license application, the applicant shall pay to the City Clerk the applicable license fee in addition to any applicable inspection fee(s).

A. The amount of the license and applicable inspections fee(s) shall be determined in accordance with an established fee schedule, which fee schedule may be modified from time to time with approval of the council.

B. Any licensee who surrenders their license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

3. Fire Department Inspection.

A. All mobile food units that have cooking facilities or use products with grease laden vapors (Class III and Class IV State licenses) shall be inspected by the fire department prior to initiation of business operations within the City.

B. Inspections are required annually and prior to issuance of a mobile food vending license. It shall be the obligation of the mobile food vendor to schedule the inspection with the fire department. Class I and II State license classifications are not required to meet this inspection requirement.

C. All Class III and IV mobile food units shall have an acceptable fire suppression system, as determined by the Polk City Fire Department.

D. Upon completion of the annual fire inspection, a certificate shall be issued to the applicant to verify completion of the fire inspection. Said certificate shall be kept in the vehicle during operation.

E. At the discretion of the Polk City Fire Department, they may accept the inspection of the mobile food unit by another City's fire inspector to satisfy the annual inspection requirement. Applicant is obligated to contact the fire department to verify whether or not another community's inspection is adequate to fulfill obligation of city of Polk City inspection requirements.

4. Mobile Food Unit Licensing Application.

A. Filing. Application requests shall be filed with the City Clerk. No application request shall be accepted for filing and processing unless it conforms to the requirements of this chapter. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the appropriate fees.

B. Timely Submittal. Unless otherwise provided herein, applications must be submitted not less than seven calendar days prior to the proposed start date of the mobile food unit activities. The City reserves the right to reject any applications that have not been timely submitted to the City.

C. Applicant's Responsibility. Receiving approval of a mobile food unit license from the City shall not preclude, supersede, circumvent, or waive the applicant's responsibility to obtain any additional permits, licenses, and approvals for other applicable local, State, and federal regulations.

D. Application Contents. Application shall be made on a form provided by the City and shall include:

(1) Full name of the applicant.

(2) Applicant’s contact information including mailing address, phone numbers, and e-mail address.

(3) State health inspection certificate with the classification level of the State license.

(4) Description of the kitchen facilities, cooking facilities, preparation area, safety features (such as, but not limited to, suppression system) of the mobile food unit.

(5) Photographs of the mobile food unit from the front, side, and back.

(6) Make, model, and year of vehicle to be used and the license plate number.

(7) Overall size of the vehicle; length and width.

(8) Copy of fire department inspection certificate.

(9) Fee.

E. Character of Applicant. Upon receipt of the complete application as required by this chapter, the Police Chief or a designee shall investigate the applicant as deemed necessary for the protection of the public health, safety, welfare, and good.

(1) Unsatisfactory Character and Business Responsibility. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory such that would harm the public good, the Police Chief may endorse on such application disapproval and state reasons for disapproval and return the application to the City Clerk who shall notify the applicant in writing that the application has been disapproved, state the reasons for the denial, and the applicant's right to appeal under Subsection 4(E)(3) of this section.

(2) Satisfactory Character and Business Responsibility. If, as a result of such investigation, the applicant's character and business responsibility are found to be satisfactory, the Police Chief may endorse approval on the application and shall return the application to the City Clerk and the license may be issued.

(3) Right To Appeal. Any applicant whose application for license was disapproved as under Subsection 4(E)(3) of this section may appeal to the City Manager within 10 days by filing a written request for an appeal. As a result of this appeal, the City Manager shall hold a hearing and enter a written decision which may affirm, modify, or reverse the decision of the City Clerk. Any party aggrieved by a final determination made by the City Manager pursuant to this Code section may challenge whether the City Manager exceeded proper jurisdiction or otherwise acted illegally by commencing a certiorari action in the district court for Polk County, Iowa. If the application for license is denied, the applicant is not eligible for the issuance of a license under this chapter for a period of one year from the date of notification that the license application was disapproved, was served in person, or deposited in U.S. mail.

F. Applications Deemed Withdrawn. Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the City and made reasonable progress within 30 days from the last written notification from the City to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

G. Issuance of License. Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk will issue a mobile food unit license.

H. Modification of License After Issuance. Should the mobile food vendor change the food or beverage being offered during the term of an issued license that would change the designation of the mobile food unit to a higher state licensing level classification, a new application and fire inspection shall be required.

5. Mobile Food Units on Public Property. No mobile food unit may be operated on public property except as part of an approved event under a public property special event permit issued by the City Clerk's office or their designee, within a City park or greenway. Requests for authorization to vend within a City park or greenway (not as part of a City permitted public property special event) may be submitted no less than five days and no more than 15 days prior to the requested day of vending.

6. Unattended Mobile Food Unit. No mobile food unit shall be left unattended or stored on any site overnight, unless that property is under the ownership or control of (by way of a lease or other contractual agreement) the operator of the unit and is being done so in compliance with all other City Code requirements or the mobile food unit is a participant in a multiple (contiguous) day, City permitted, public property special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to license revocation, municipal infraction, towing, or any other action legally allowed.

(Ch. 125 – Ord. 2021-2100 – Jan. 22 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the Building Inspector and shall contain the following:

   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of $1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of $1,000.00 may be filed with the City.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

   A. Bodily Injury - $50,000.00 per person; $100,000.00 per accident.

   B. Property Damage - $50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Fee. A permit fee of $25.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

13. Compliance. Compliance with SUDAS must be maintained.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the Business District it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be 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])

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

135.13 FINE FOR PLACING DEBRIS ON OR DUMPING OF SNOW. The penalty for this unlawful action as outlined in Section 135.03 (Placing Debris On) and Section 135.12 (Dumping of Snow) may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of $45.00. Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

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CHAPTER 136

SIDEWALK REGULATIONS

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. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 24 hours after a snowfall or the deposit or formation of ice thereon, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owner 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, free from defects, debris, nuisances, obstructions, or any other hazard. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax. Liability to the public is hereby imposed upon the property owner for failure to comply with this section.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*. Liability to the public is hereby imposed upon the property owner for failure to comply with this section.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width, and Depth. Length, width, and depth requirements are as follows:

   A. Residential sidewalks shall be five feet wide, unless the City Manager approves a four foot wide sidewalk based on the width of existing sidewalks in the vicinity, (as per Chapter 170, Subdivision Regulations) and four inches thick, and each section shall be no more than four feet in length.

B. Town Square Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.

C. Driveway areas shall be not less than six inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.

11. 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, unless otherwise approved by City Council on a Preliminary Plat or construction drawing (as per Chapter 170, Subdivision Regulations, which require only one crosswalk at tee intersections).. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.14 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.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

136.19 STORMWATER. It is unlawful to discharge stormwater across a sidewalk.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] and 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
96-400	August 12, 1996	2017-700	November 13, 2017
96-800	October 28, 1996	2017-1200	November 13, 2017
97-700	June 23, 1997	2018-900	October 8, 2018
97-800	July 14, 1997	2020-600	May 26, 2020
97-1000	July 14, 1997	2020-1300	September 28, 2020
97-1100	August 25, 1997	2021-1400	May 10, 2021
97-1300	October 13, 1997	2021-1500	June 14, 2021
98-200	January 12, 1998	2021-1800	July 12, 2021
98-400	March 9, 1998	2021-2500	November 8, 2021
98-600	December 28, 1998	2021-2600	November 8, 2021
99-100	July 26, 1999	2022-1800	August 8, 2022
2003-800	October 13, 2003	2022-2000	January 24, 2022
2004-100	March 8, 2004	2023-1000	January 9, 2023
2004-400	November 22, 2004		
2007-1100	August 27, 2007		
2008-200	March 24, 2008		
2008-500	July 28, 2008		
2009-1000	January 11, 2010		
2010-2100	August 23, 2010		
2009-1100	October 10, 2011		
2011-700	June 13, 2011		
2012-600	September 24, 2012		
2012-1000	November 12, 2012		
2013-1200	October 28, 2013		
2013-1300	November 11, 2013		
2014-600	August 22, 2014		
2015-700	June 22, 2015		
2015-800	August 10, 2015		
2016-1100	January 25, 2016		
2016-1200	January 25, 2016		

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CHAPTER 138

STREET GRADES

138.01 PURPOSE AND DEFINITION. This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades. As used herein, "grade" means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

138.02 ESTABLISHED GRADES. The grades of all streets, alleys, and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.03 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

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CHAPTER 139

NAMING OF STREETS

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. All street names shall be named in accordance with Chapter 17.08(6)(T).

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 Polk City, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

DRIVEWAY REGULATIONS

140.01 PERMIT REQUIRED. No person shall break out or remove a curb along any public street, or construct a private drive from a public street, without first obtaining a permit from the Clerk or Building Official. No such permit shall have any force or effect unless approval shall be endorsed of the fact on said permit by the Building Official.

140.02 PERMIT FEE. Before any permit is issued, the person who makes the application shall pay a fee of $15.00 to the Clerk.

140.03 CONCRETE PAVEMENT REQUIRED. In all cases where said permit has been granted, the concrete curb shall be ground or sawn in accordance with SUDAS and the driveway and approach shall be paved with not less than six inches of concrete extending from the curb to the inside of the existing sidewalk line within 30 days from the removal of the curb. If it is shown to the satisfaction of the Public Works Director that the existing sidewalk has substantially the same strength as six-inch concrete, said paving need only extend to the outside of the sidewalk line. All work is to be done in a workmanlike manner, inspected and approved by the City. All driveway approaches shall be paved from the street to the sidewalk according to SUDAS. If there is no sidewalk, the approach shall extend to the property line and shall be inspected by the City.

140.04 COMPLETION BY THE CITY. If, after 30 days after the curb has been removed, the person so doing fails or refuses to pave the driveway, as provided herein, the City shall have the right to do so without notice, and assess the cost thereof, as a special tax against the abutting property and collect the same according to law.

140.05 CULVERTS. When a permit has been granted to construct a private driveway and a culvert is required, the person receiving said permit shall perform the necessary grading and install a culvert in accordance with the following:

1. The culvert shall be either reinforced concrete pipe, unless the Public Works Director approved corrugated metal pipe with a minimum diameter of 12 inches (12" RCP and 12" CMP culverts) and a maximum length of 24 feet, the permit holder to bear the cost of the culvert.

2. The Public Works Director is hereby empowered to order existing culverts, which do not meet the requirements of this section or are damaged, replaced when the Public Works Director deems the culvert will not satisfactorily carry away run-off water.

3. It shall be the responsibility of the property owner to make such replacement and, in the event the owner fails to do so, the Public Works Director shall have the right to make the replacement. The property owner shall be charged with the costs of the same, and if not paid within 90 days from the date of completion of said replacement,

said cost shall be assessed as a special tax against the abutting property and collected according to law.

4. All culverts installed or replaced shall be installed in accordance with, and all work must be in compliance with SUDAS and shall conform to the established ditch grade, as determined by the engineer or Public Works Director.

140.06 DRIVEWAY REQUIREMENTS. In any zoning district, a paved driveway is required in conjunction with construction of a new principal structure, a remodeling project in an amount equal to or greater than 25% of the original building valuation, a building addition larger than 100 square feet in size, a new attached or detached garage, or any other accessory structure larger than 400 square feet in size. A paved driveway shall also be required if an existing gravel driveway or parking area is expanded by four feet in any direction.

1. Permit Required. Before any person shall construct a new driveway, expand the dimensions of an existing gravel or non-gravel driveway by more than four feet in any direction, or replace a gravel driveway with a paved driveway, a permit must first be obtained from City Hall and must meet all requirements herein.

2. Within the public right-of-way, driveways shall be at least 10 feet wide with a maximum width of 12 feet per garage stall up to a total maximum of not more than 36 feet wide within the public right-of-way, except where located on a cul-de-sac bulb where the maximum widths 24 feet wide within the public right-of-way. This portion of the driveway, including sidewalk running across said driveway, shall be six inches thick Portland cement concrete.

3. For the purposes of this subsection, the remainder of the paved driveway shall consist of any kind of hard surfacing, including but not limited to Portland cement concrete, bituminous concrete, or brick pavers together with the necessary base. Paving does not include surfacing with oil, gravel, oil and gravel, sealcoat, or chloride.

4. No driveway shall be within 15 feet of any street intersection, measured from the property corner. No driveway shall be located closer than one foot from the property line. The driveway flare must remain within the limits of the property lines, extended to the curb, of the lot on which the driveway is constructed.

5. The driveway approach, defined as that portion of the driveway located within the right-of-way of the public street, shall be paved with Portland cement concrete or bituminous concrete and shall be designed to accommodate the crossing of a public sidewalk. Two, three-foot flares, are allowed for the driveway approach for a maximum of no more than 42 feet at the curb. A 30-inch-wide section of the curb and gutter shall be saw-cut and removed and replaced with full depth pavement matching the existing street pavement unless otherwise approved by the Public Works Department.

6. No single-family residential lot shall be permitted more than one driveway unless the lot has more than 250 feet of frontage on one street, in which case two driveways may be permitted provided all SUDAS requirements are met.

7. Residential driveways on corner lots shall be connected to the lower order street, based on functional classification of the streets as determined by the City Engineer.

[The next page is 1015]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 ENFORCEMENT OFFICER. The City Manager is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to collapse partially or completely.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF POLK CITY, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 150

BUILDING NUMBERING

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

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

1. "DBH" or "caliper" means the diameter of a tree at breast height (four feet, six inches).

2. "Park trees" means trees, shrubs, bushes, and all other woody vegetation located in public parks having individual names, and all areas owned by the City or to which the public has free access as a park, including trees, shrubs, bushes, and all other woody vegetation located in parkway easements along public streets designated as parkways.

3. "Parking" means that part of the street right-of-way 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 right-of-way lying between the lot line and that portion of the street usually traveled by vehicular traffic.

4. "Private trees" means trees, shrubs, bushes, and all other woody vegetation located on private property to which the City has no responsibility.

5. "Public right-of-way" means any publicly-owned property or easement area intended to provide for a public street, sidewalk or other public property, and includes, but is not limited to, the parking area between the curb of any public street and the adjacent public sidewalk.

6. "Street tree" means any tree, shrub, bush, or other woody vegetation has been approved by the City Council for a specific location in the public right-of-way parking and/or parkway easement.

7. "Topping" means the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms, diseases or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the City.

151.02 PLANTING PROHIBITED. No trees, shrubs, bushes, or woody vegetation shall be planted in any public right-of-way, including parking or within island medians of divided streets, located within the City except in compliance with the provisions of this chapter.

151.03 PUBLIC TREE CARE. Except as limited by Section 151.02 of this chapter, the City has the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines

of all streets, avenues, stands and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

151.04 STREET TREE PERMIT REQUIRED. Any person proposing to plant a tree on or in a public right-of-way shall be required to obtain approval of permit from the City based on the process described herein:

1. Plan Submitted. Any person proposing to plant a tree on or in a public right-of-way shall first prepare a written plan which shall contain the following information:

A. The names and addresses of the person making the proposal and of all private property owners whose property is adjacent to or contiguous with the public right-of-way upon or in which the proposed trees are to be planted.

B. The location of the property where the proposed planting is to take place.

C. The type and number of trees proposed to be planted and a sketch or drawing showing how the plantings will be placed on the property. The sketch or drawing shall show distances between proposed trees and distances of proposed tree plantings from existing streets, sidewalks, traffic signs, utility lines, utility poles, hydrants and intersections.

D. The plan shall be signed by the person submitting the same.

2. Review of Plan. The City Public Works Director shall review each plan submitted and shall either approve it or deny it, in writing, within 30 days after it is received. If denied, the plan may be resubmitted with any modifications required by the Public Works Director. The decision of the Public Works Director shall be final.

3. Guidelines. No plan submitted pursuant to the provisions of this chapter shall be approved unless all of the following conditions are met:

A. Any tree proposed to be planted in accordance with the terms of this section must be of a type included on the list of tree species suitable for planting within the right-of-way, as established from time to time by resolution of the City Council, subsequent to a recommendation of the City Tree Board.

B. Trees must be spaced at least 15 feet apart, center to center.

C. Every tree to be planted must have a trunk diameter of at least one inch, measured 12 inches from the base.

D. Trees must be planted a minimum of:

(1) Five lineal feet from water service stop boxes.

(2) 10 lineal feet from water hydrants, utility poles, transformers, telephone junction boxes, manholes and driveway approaches.

(3) 20 lineal feet from traffic signs and street lights.

E. No tree shall be planted closer than three feet from the curb line and no closer than three feet from the edge of the sidewalk closest to the street. No tree shall be planted where there is, or will be at the tree's maturity, less than two and one-half feet of soil on all sides of such tree.

F. Trees shall not be permitted within 30 feet of the intersection of the rights-of-way of public streets or within 20 feet of the intersection of the curb

line of driveways of commercial, industrial or institutional properties with a public street.

G. No tree shall be permitted in any case which, because of its size or location, or because of its eventual growth, will interfere with street signs, fire hydrants, street lights, utility poles or utility lines; or which will create any hazard to the safe flow of traffic by obstructing vision or otherwise.

H. During the development, redevelopment, razing or renovating of any property, no more than 50 percent of the trees existing in the public right-of-way adjoining such property shall be cut, damaged or removed, nor shall any person excavate any ditch, tunnel or trench or lay any driveway within a radius of 20 feet from any tree in the public right-of-way. Provided, however, the Public Works Director may issue a special permit to allow cutting or removal of trees or excavation which would otherwise violate this provision on application therefor by the owner of the property and upon determination by the Public Works Director that variance from the provisions of this section is reasonably necessary to enable development of the property in accordance with previously approved development plans.

I. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to any tree in or on a public right-of-way; or allow any gaseous, liquid, chemical, or solid substance that is harmful to such trees to come into contact with them; or set fire to any such tree or part thereof, or cause or permit any burning which will damage any such tree or a part thereof.

J. Tree topping is not permitted on any tree in or on a public right-of-way.

4. Maintenance; Liability. Any person planting trees in or on a public right-of-way pursuant to this chapter and such person's successors in interest shall be and remain solely responsible for the proper maintenance of such tree or trees in compliance with this chapter and all other ordinances and regulations of the City. At the time that the request for approval for the planting of such trees is made, such person shall agree in writing, as a condition to such approval being given, to assume, pay and hold the City harmless from payment or liability for any damages of any nature whatsoever caused by the planting or maintenance of the trees.

151.05 DUTY TO TRIM.

1. All trees, shrubs, bushes, or woody vegetation; whether on public or private property; which have branches overhanging a public street or sidewalk shall be kept trimmed to a clearance height of 14 feet for branches overhanging a street and 10 feet for branches overhanging a sidewalk. It is the duty of any person owning or occupying real property adjoining a public street or sidewalk and on which there may be trees, shrubs, bushes, or woody vegetation to prune such plantings, at a minimum, in such a manner as to comply with this section, and in addition, to the extent necessary, to preclude any obstruction or shading of street lights, any obstruction to the passage of pedestrians on sidewalk, any obstruction to the vision of traffic signs, or of street or alley intersections.

2. It is the duty of any person owning or occupying real property adjoining a public street or sidewalk and on which there may be trees, shrubs, bushes, or woody

vegetation to remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

3. The City has the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, interferes with the visibility of any traffic control device or sign, or violates the terms of this subsection.

151.06 REMOVAL OF TREES AND STUMPS.

1. Dead or Diseased Tree Removal on Private Property. The owner or person in possession of private property shall remove any trees constituting a hazard to life or property, or trees harboring insects or disease which constitute a potential threat to other trees within the City located on the private property within the City.

2. All trees removed from public right-of-way shall be completely removed below the surface of the ground so the top of the stump does not project above the surface of the ground; and shall be disposed of in a lawful manner.

151.07 CITY ABATEMENT; ASSESSMENT OF COST. If the abutting property owner or person in possession of the abutting property fails to trim the trees as required in Section 151.05 or remove trees and stumps as required in Section 151.06, the City may serve notice on the abutting property owner requiring the property owner to do so within 30 days. If the property owner fails to trim the trees 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.

151.08 NON-CONFORMING TREES IN PUBLIC RIGHT-OF-WAY. Any existing tree with 50 percent or more of its trunk located within the public right-of-way at the time as of the effective date of the ordinance codified in this chapter shall be considered a non-conforming public tree. Maintenance of said non-conforming public tree shall be the responsibility of the City, including removal of said tree at the sole discretion of the City. Any existing tree with less than 50 percent of its trunk located within the public right-of-way at the time as of the effective date of the ordinance codified in this chapter shall be considered a non-conforming private tree. Maintenance of said non-conforming private tree shall be the responsibility of the property owner, provided however that should said non-conforming tree need to be removed due to a City construction project then the cost of such removal shall be the responsibility of the City.

151.09 PARKWAY AND BUFFER TREES. Maintenance of any and all trees located within a parkway easement, buffer easement or similar landscape easement or within a buffer area required in conformance of Section 165.19 shall be the responsibility of the property owner. Parkway trees shall be maintained in a manner that preserves or enhance the symmetry and beauty of the parkway and/or buffer area. Trees shall be of a type included on the list of tree species suitable for planting within parkway or buffer easements unless otherwise approved by City Council on a site plan. Any parkway or buffer tree that has been removed for any reason shall be replaced as soon as practicable with a tree of the same species as the original tree unless otherwise approved by the City.

151.10 LANDSCAPE PLAN.

1. Submission of Plan; Required Information. In connection with the submission of a site plan, site plan amendment, or preliminary plat for approval by the Planning

and Zoning Commission and the Council, the applicant shall submit a landscape plan, which must contain, at a minimum, the following information:

A. The location of all existing trees four inches in diameter or larger, when measured at the DBH, on public or private property, specifying the size, species and condition of such existing trees (any such existing trees to be removed shall be noted);

B. The location of all new plant material to be planted on the property, shown by size and species; and

C. A landscape plan filed in connection with a preliminary plat need only show the outline of existing trees and foliage, clarifying the drip line area of trees with the use of "clouded" areas of individual or clumping of trees. Existing tree areas to be protected shall be shaded. Existing tree areas to be removed by grading, construction of public improvements, or within the buildable area of each lot shall be hatched to clarify the limits of removal.

D. A parkway easement having a minimum width of 15 feet shall be established on private lots abutting all public streets designated as parkways on the Comprehensive Plan and/or so designated on the approved preliminary plat. Said easement shall be designed to accommodate street trees, benches, bike rack, and similar amenities. Parkway easements shall be exclusive of public utility easements. A landscape plan shall be filed for each parkway showing the size and species of all plant materials and clarifying whether the trees will be planted by the developer at the time of plat construction or by the homebuilder prior to issuance of a certificate of occupancy. Tree species shall be in conformance with the list of acceptable trees approved by the City Council; a diversification of species along parkways is encouraged.

2. Preliminary Plat Evaluation; Considerations. In evaluating any preliminary plat or site plan for approval, the Commission and the Council shall consider the following issues addressed by the landscape plan:

A. Whether an excessive or unnecessary number of existing trees are to be removed, taking into consideration the City's goal of preserving existing trees and any reasonable alternatives available to the developer;

B. All site plans in zoning districts shall be planted with a variety of trees and shrubs which are substantial in size and number, and are in accordance with the City's policy on recommended trees;

C. Whether the applicant has provided for the replacement of existing trees to be removed, at other locations on the property;

D. Whether the landscaping provides a visual buffer, where necessary, from the surrounding property including headlight screening for streets; and

E. Whether the streets, sidewalks and lots are laid out in a manner to preserve existing trees, where feasible, and whether the applicant has provided for fencing off or protecting trees during construction, to the extent feasible.

F. Whether parkways are designed in accordance with the Comprehensive Plan.

3. Protection of Existing Trees Not Being Removed. Any and all existing trees which are not to be removed pursuant to the landscape plan shall be clearly identified

and, prior to the issuance of a grading permit, shall be protected at the construction site by fencing located around the drip line of the tree, where feasible, maximizing the protection of the root zone area of the tree. The foregoing fencing requirements may be waived or modified by the City if the trees to be saved are not located in an area where construction is occurring.

4. Grading Permits; Council Approval Before Permit Issuance. Prior to the issuance of any grading permit or demolition permit for the development of any property that will require site plan or plat approval, the applicant shall disclose to the City whether any existing tree, four inches in diameter or larger, when measured at the DBH, are to be removed. If any such trees are to be removed, the City shall not issue a grading permit or demolition permit until a site plan or preliminary plat has been approved by the Council. This is not to include occupied single-family dwellings or two-family dwellings.

5. Certificate of Occupancy; Trees Required for Residential Uses. Prior to the issuance of a permanent certificate of occupancy for any new one- and two-family residential home, all trees required by Section 151.11 of this chapter shall have been planted. Prior to the issuance of a certificate of occupancy for any new multiple-family dwelling, each multiple-family residential dwelling unit shall have all of the adjacent planting materials as shown on the approved site plan and deemed by the Building Inspector to be closest to said dwelling unit.

6. Illegal Tree Removal; Remedial Action. If any trees are removed in violation of an approved site plan or plat, the owner or developer shall plant three times such number of trees, of equal caliper, on such plat or site plan. If it is impractical to replace such a tree with an equal caliper tree, then several trees of a smaller caliper, totaling, in aggregate, the caliper of the improperly removed tree, shall be required. The specific number and size of such trees shall be determined by the City. For purposes of example only, if one eight-inch caliper tree is improperly removed, the City may require: (i) that three eight-inch caliper trees be planted;(ii) that six four-inch caliper trees be planted; or (iii) that 12 two-inch caliper trees be planted. If it is impractical to place all of such trees on that particular plat or site plan, the City may require that some of the trees be planted on public property, such as in a park.

7. Diseased or Damaged Plantings; Replacement. If any trees, vegetation or other landscape materials shown on an approved landscape plan shall become diseased or substantially damaged at any time after the landscape plan is approved, the owner of the property shall promptly replace such trees, vegetation, or landscape material to bring the property in compliance with the landscape plan.

151.11 TREES REQUIRED WITH BUILDING PERMIT FOR ONE- AND TWO-FAMILY HOMES. In conjunction with a building permit for any new single-family home, one overstory tree shall be planted in the front yard prior to issuance of a permanent certificate of occupancy for said home. In conjunction with a building permit for any new two-family home, two trees shall be planted in the front yard, with one tree in front of each dwelling unit, prior to issuance of a permanent certificate of occupancy for said homes. The required trees for the two-family home may be either two overstory trees or one overstory and one understory trees. All trees required by this section shall be from the list of suitable trees as approved by City Council, provided, however, that species selection shall be the responsibility of the property owner based on site considerations. All trees required by this section shall be not less than one-inch caliper. In cases where there are existing trees in the front yard of any single-family or two-family home, deemed to be suitable in terms of condition and species by the City Manager

or designee thereof, the requirement for new overstory trees may be reduced or waived by the City Manager.

151.12 TREE PLANTING GUIDELINES. Trees that are required to be planted on private property by a developer in conjunction with a subdivision plat as required by Chapter 170; by a developer in conjunction with a site plan as required by Chapter 157; or by a property owner or homebuilder in conjunction with a building permit as required by Section 151.11 shall be planted in conformance with the following guidelines. Trees not required by City Code that property owners choose to plant on their own property do not need to be planted by these guidelines.

1. All required trees shall be delivered to the site as balled-and-burlapped trees or via tree spade. Trees in containers shall not be considered acceptable.

2. The developer or property owner shall be responsible for regular watering of said required trees. Gator bags, perforated buckets, or similar means of slow release watering are recommended.

3. All required trees shall be mulched with wood chips, bark, or similar material designed to prevent excessive evaporation.

4. All required trees shall be staked for a period of one year following planting.

151.13 ENFORCEMENT. Unless another penalty is expressly provided by this chapter for any particular provision or section, any violation of this chapter is declared to be a municipal infraction. The rights and remedies of the City hereunder are in addition to, and not in substitution of, any other or further rights or remedies the City may have under this Code of Ordinances or State law.

151.14 TREE SERVICE BUSINESSES. Any person owning or operating a tree service business within the City shall obtain, maintain, and provide to the Clerk evidence of liability insurance coverage covering all risk of damage or liability arising out of the conduct of such business in minimum amounts of $100,000.00 for property damage and $300,000.00 for injury to or death of any one person. Proof of such coverage delivered to the Clerk shall be a prerequisite to the conduct by any person of a tree service business in the City.

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CHAPTER 152

WEEDS

152.01 REMOVAL OF WEEDS. It is the duty of the owners of any property within the City to keep such property free from weeds, vines, brush, or other vegetation when such growth constitutes a health, safety, or fire hazard. No person shall allow or permit grass or weeds to grow upon such person's property to a height in excess of six inches. The only exception to this chapter is prairie grass or forbes in accordance with an approved site plan. All grass or weeds in excess of such height shall be cut or eliminated by the City after giving three-days' written notice to the owner or occupant of such property. Such notice may be personally mailed, by ordinary mail, to the owner's last known address, no less than five days before the required action. A failure to receive such notice shall not be deemed to be a defense to any assessment certified under this section. The actual cost of cutting or elimination of such grass or weeds shall be assessed against the property for collection in the same manner as property taxes. An owner or occupant of a property which receives two written notices in a 12-month period may be subject to a municipal infraction in accordance with Chapter 3 of this Code of Ordinances.

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CHAPTER 155

BUILDING CODES

155.01 TITLE. This chapter shall be known as the Building Codes of the City of Polk City, Iowa, may be cited as such, and will be referred to herein as the "Polk City Building Codes."

155.02 ADOPTION OF BUILDING CODES. The following codes are hereby adopted as, and constitute, the Building Codes of the City to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City.

155.03 BUILDING CODE. The provisions of the *International Building Code*, 2018 edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Polk City Building Code*, hereinafter referred to as "this code."

2. Section 101.4.1 Gas. Delete "International" and insert in lieu thereof "Polk City" and add at the end of the section: "All references in this code to the *International Fuel Gas Code* shall be interpreted to refer to the *Polk City Fuel Gas Code*."

3. Section 101.4.2 Mechanical. Delete "International" and insert in lieu thereof "Polk City" and add at the end of the section: "All references in this code to the *International Mechanical Code* shall be interpreted to refer to the *Polk City Mechanical Gas Code*."

4. Section 101.4.3 Plumbing. Delete "*International Plumbing Code*" and insert in lieu thereof "Polk City Plumbing Code" and add at the end of the section: "All references in this code to the *International Plumbing Code* shall be interpreted to refer to the *Polk City Plumbing Code*."

5. Section 101.4.4 Property maintenance. Delete "International" and insert in lieu thereof "Polk City" and add at the end of the section: "All references in this code to the *International Property Maintenance Code* shall be interpreted to refer to the *Polk City Property Maintenance Code*."

6. Section 101.4.5 Fire prevention. Delete "International" and insert in lieu thereof "Polk City" and add at the end of the section: "All references in this code to the *International Fire Code* shall be interpreted to refer to the *Polk City Fire Code*."

7. Section 101.4.6 Energy. Delete "International" and insert in lieu thereof "Polk City" and add at the end of the section: "All references in this code to the *International Energy Conservation Code* shall be interpreted to refer to the *Polk City Energy Conservation Code*."

8. Section 101.4.7 Existing buildings. Delete "International" and insert in lieu thereof "Polk City" and add at the end of the section: "All references in this code to the *International Existing Building Code* shall be interpreted to refer to the *Polk City Existing Building Code*."

9. Section 101.4 Referenced Codes. Add Subsection 101.4.8: "101.4.8 Electrical. The provisions of the *Polk City Electrical Code* shall apply to the installation, alteration, repair, and replacement of electrical systems, including equipment, appliances, fixtures, fittings, and appurtenances. All references in this code to NFPA 70 shall be interpreted to refer to the *Polk City Electrical Code*."

10. Section 104.11 Alternative materials, design and methods of construction and equipment. Add Subsection 104.11.3: "104.11.3 Manufactured home installation. The *Iowa Administrative Code* 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes."

11. Section 105.2 Work exempt from permit. Building Item #1. Delete "120" and insert in lieu thereof "200."

12. Section 105.2 Work exempt from permit. Building Item #2. Delete existing text.

13. Section 105.2 Work exempt from permit. Building Item #6. Delete existing text and insert: "Sidewalks and driveways located entirely on private property, and not more than 30 inches above adjacent grade, and not over any basement or story below, and not part of an accessible route."

14. Section 107.1 General. Delete "in two or more sets."

15. Section 107.3.1 Approval of construction documents. Delete this section.

16. Section 903.4.2 Alarms. Delete existing text and insert: "An approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system."

17. Section 907.1. General. Add Subsection 907.1.4: "907.1.4 Fire alarm control panels (FACP). Each building shall have no more than one fire alarm control panel. Installation of the fire alarm control panel shall not exceed six feet in height, measured from the floor to the top of the control panel. Exception: Suppression system releasing panels are not required to meet the height requirement or the limitation on the number of panels."

18. Section 1009.2 Continuity and components. Add Item Number 11: "11. Concrete, asphalt, or other approved hard-surface exterior walking surfaces."

19. Section 1010.1.6 Landings at doors. Add Subsection 1010.1.6.1: "1010.1.6.1 Landing frost protection. Exterior landings required by Section 1010.1.5 to be at the same elevation on each side of the door shall be provided with frost protection."

20. Section 1028.5 Access to a public way. Add at the end of the section: "Components of exterior walking surfaces shall be hard-surfaced."

21. Section 1030.4 Window wells. Add Subsection 1030.4.3: "1030.4.3 Window well drainage. All window wells shall be provided with approved drainage."

22. Section 1301.1.1 Criteria. Delete "International" and insert in lieu thereof "Polk City."

23. Section 1612.3 Establishment of flood hazard areas. Insert: "City of Polk City, Iowa" and "as adopted in City of Polk City Code of Ordinances Chapter 160."

24. Section 1807.1.5 Concrete and masonry foundation walls. Add Exception #2 and Table 1807.1.5: "2. Concrete and masonry foundation walls supporting buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table 1807.1.5.

Table 1807.1.5
Prescriptive Foundation Walls Supporting Light-Frame Construction[a, b, c]

Height of foundation wall[d]		Thickness of foundation wall		Reinforcement size and placement in concrete wall		Reinforcement size and placement in masonry wall[j,k]
Gross	**Net[e]**	**Concrete[f]**	**Masonry[g]**	**Horizontal**	**Vertical**	
≤8 feet	≤7 feet, 8 inches	7.5 inches	8 inches	No. 4 bar within 12 inches of the top and bottom of the wall and at mid-height	No. 4 bar at 72 inches o.c. maximum	0.075 square inch bar at 96 inches o.c. vertically in cells fully grouted with Type M or S grout
>8 feet	>7 feet, 8 inches	8 inches	Refer to R404.1.2	No. 4 bar at 24 inches o.c. maximum[h]	No. 4 bar at 20 inches o.c. maximum[i]	Refer to 1807.1.6

[a] Concrete floor slab to be nominal 4" thick. If such floor slab is not provided prior to backfill, one 36" vertical No. 4 bar shall be embedded in the footing at maximum 84" o.c. spacing or a full depth nominal 2" depth x 4" width keyway shall be installed in the footing.
[b] All reinforcement bars shall meet ASTM A6175 grade 40 minimum and be deformed. Placement of bars shall be 3" from the inside face of the wall and meet the provisions of chapters 18, 19, and 21 of the *International Building Code*.
[c] Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the *International Building Code*. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.
[d] Maximum foundation wall height is 10' gross and 9'-8" net.
[e] Net foundation wall height measured from top of basement slab to top of foundation wall.
[f] The thickness of concrete foundation walls supporting 3 floors shall be increased 2 inches.
[g] The thickness of masonry foundation walls supporting 3 floors shall be increased 4 inches.
[h] No. 5 bar at 24" o.c. maximum is an approved alternative.
[i] No. 5 bar at 30" o.c. maximum is an approved alternative.
[j] Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.
[k] If masonry block is 12" nominal thickness, wall may be unreinforced.

25. Section 1809.5 Frost protection, Exception 2. Delete "600" and insert in lieu thereof "1,000."

26. Section 1809.7 Prescriptive footings for light-frame construction. Delete existing Table 1809.7 and all footnotes and insert:

Table 1809.7
Prescriptive Footings Supporting Walls of Light-Frame Construction[a, b, c, d, e, f]

Number of floors supported by the footing[g]	Thickness of foundation walls (inches), concrete	Thickness of foundation walls (inches), concrete block	Width of footing (inches)	Thickness of footing (inches)
1	8	8	16	8
2	8	8	16	8
3	10	12	18	12

[a] Depth of perimeter footings shall be at least 42" below final grade.
[b] The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.
[c] Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
[d] Spread footings shall have a minimum of 2- #4 continuous horizontal reinforcement bars.
[e] Foundation walls shall have a minimum of #4 reinforcement bars 18" on center in each direction.
[f] Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.
[g] Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor.

27. Section 2902.6 Small Occupancies. Add at the end of the section: "Water dispensers in accessible locations and within accessible reach ranges may be substituted for the required drinking fountain in business occupancies determined to require only one drinking fountain by occupant load."

28. Section 3109.1 General. Delete "International" and insert in lieu thereof "Polk City."

155.04 RESIDENTIAL CODE. The provisions of the *International Residential Code for One-and Two-Family Dwellings*, 2018 edition, as published by the International Code Council, except for Part VII-Plumbing, and Part VIII-Electrical; and with the addition of Appendix Chapters G, H, and J, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions:

1. Section R101.1 Title. Delete existing text and insert: "These regulations shall be known as the Polk City Residential Code, hereinafter referred to as "this code."

2. Section 104.11 Alternative materials, design and methods of construction and equipment. Add Subsection 104.11.2: "104.11.2 Manufactured home installation. The *Iowa Administrative Code* 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction, is hereby adopted for installation of mobile (manufactured) homes."

3. Section R105.2 Work exempt from permit. Building Item #2. Delete existing text.

4. Section R105.2 Work exempt from permit. Building Item #5. Delete existing text and insert: "Sidewalks and driveways located entirely on private property.

5. Section R106.1 Submittal documents. Delete "in two or more sets."

6. Section R106.3.1 Approval of construction documents. Delete this section.

7. Table R301.2(1) Climatic and Geographic Design Criteria. Amend Table 301.2(1) to include the following values:

Ground Snow Load:	25 PSF
Wind Speed (MPH):	115
Topographic Effects:	NO
Special Wind Region:	NO
Wind-borne Debris Zone:	NO
Seismic Design Category:	A
Weathering:	Severe
Frost Line Depth:	42 inches
Termite:	Moderate to Heavy
Winter Design Temp:	-5°F
Ice Barrier Underlayment Required:	YES
Flood Hazards:	As adopted in Chapter 160 of this Code of Ordinances
Air Freezing Index:	1833
Mean Annual Temp:	48.6°F
Elevation:	950 feet
Latitude:	41°N
Winter Heating:	-5°F
Summer Cooling:	90°F
Altitude Correction Factor:	0.97
Indoor Design Temperature:	70°F
Design Temperature Cooling:	75°F
Heating Temperature Difference:	75°F
Cooling Temperature Difference:	15°F
Wind Velocity Heating:	15 MPH
Wind Velocity Cooling:	7.5 MPH
Coincident Wet Bulb:	74°F
Daily Range:	M
Winter Humidity:	30 percent
Summer Humidity:	50 percent

8. Section R303.3 Bathrooms. Delete existing text and insert: Bathrooms shall be provided with a mechanical ventilation system. The minimum ventilation rates shall be 50 CFM for intermittent ventilation or 20 CFM for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside of the dwelling.

9. Section R310.2.4 Emergency escape and rescue openings under decks and porches. Add at the end of the section: "All cantilevered construction elements shall be regulated in accordance with this section."

10. Section R311.3.2 Floor elevations for other exterior doors, Exception. Delete "two" and insert in lieu thereof "three."

11. Section R313.1 Townhouse automatic fire sprinkler systems. Add Exception #2: "2. Townhouse structures that contain eight or fewer dwelling units and in which the gross finished and unfinished floor area on all levels, including basements and exclusive of attached garages, is less than 18,000 square feet."

12. Section R313.2 One- and two-family dwellings automatic fire systems. Add Exception #2: "2. Dwellings that do not exceed 8,000 square feet or more of enclosed floor space on all levels, including basements and exclusive of attached garages."

13. Section R326.1 General. Delete "International" and insert in lieu thereof "Polk City."

14. Section R403.1.1.1 Conventional light-frame wood construction. Add Subsection R403.1.1.1 and Table R403.1.1.1: "R403.1.1.1 Conventional light-frame wood construction. Footings supporting concrete foundations and buildings of conventional light-frame wood construction shall be permitted to be designed in accordance with Table R403.1.1.1.

Table R403.1.1.1
Prescriptive Footings Supporting Walls of Light-Frame Construction[a,b,c,d,e,f,g]

Number of floors supported by the footing[g]	Width of footing (inches)	Thickness of footing (inches)
1	16	8
2	16	8
3	18	12

[a.] Minimum 2,000 psf soil bearing pressure. Soil bearing pressures less than 2,000 psf shall use Tables R403. l (1) through R403.1(3) and Figure R403. l (1) or R403. l.3, as applicable.
[b.] Depth of perimeter footings shall be at least 42" below final grade
[c.] The ground under the floor shall be permitted to be excavated to the elevation of the bottom of the footing.
[d.] Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than 6 feet on center.
[e.] Spread footings shall have a minimum of2- #4 continuous horizontal reinforcement bars.
[f.] Trench footings are allowed as a continuous 8 inch trench for single-story wood frame structures with spans not exceeding 16 feet. The trench must be at least 42 inches below finished grade and have at least two #4 horizontal reinforcement bars. Bars must tie into abutting adjacent structure.
[g.] Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor.

15. Section R403.1.4.1 Frost protection, Exception #1. Delete "600" and insert in lieu thereof "1,000."

16. Section R404.1.3.2.3 Foundation walls for conventional light-frame wood construction. Add Subsection R404.1.3.2.3 and Table R404.1.3.2.3: "R404.1.3.2.3 Foundation walls for conventional light- frame wood construction. Concrete and masonry foundation walls supporting buildings of conventional light- frame wood construction shall be permitted to be designed in accordance with Table R404.1.3.2.3.

Table R403.1.1.1
Prescriptive Foundation Walls Supporting Light-Frame Construction[a,b,c]

Height of foundation wall[d]		Thickness of foundation wall		Reinforcement size and placement in concrete wall		Reinforcement size and placement in masonry wall[j,k]
Gross	Net[e]	Concrete[f]	Masonry[g]	Horizontal	Vertical	
≤8'	≤7'-8"	7.5"	8"	No. 4 bar within 12" of the top and bottom of the wall and at mid-height	No. 4 bar at 72" o.c. maximum	0.075 square inch bar at 96" o.c. vertically in cells fully grouted with Type M or S grout
>8'	>7'-8"	8"	Refer to R404.1.2	No. 4 bar at 24" o.c. maximum[h]	No. 4 bar at 20" o.c. maximum[i]	Refer to R404.1.2

[a.] Concrete floor slab to be nominal 4" thick. If such floor slab is not provided prior to backfill, one 36" vertical No. 4 bar shall be embedded in the footing at maximum 84" o.c. spacing or a full depth nominal 2" depth x 4" width keyway shall be installed in the footing.
[b.] All reinforcement bars shall meet ASTM A6l75 grade 40 minimum and be deformed. Placement of bars shall be 3" from the inside face of the wall and meet the provisions of chapters 18, 19, and 21 of the International Building Code.
[c.] Material used as backfill shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1805.4 of the International Building Code. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.
[d.] Maximum foundation wall height is 10' gross and 9'-8" net.
[e.] Net foundation wall height measured from top of basement slab to top of foundation wall
[f.] The thickness of concrete foundation walls supporting 3 floors shall be increased 2".
[g.] The thickness of masonry foundation walls supporting 3 floors shall be increased 4"
[h.] No. 5 bar at 24" o.c. maximum is an approved alternative.
[i.] No. 5 bar at 30" o.c. maximum is an approved alternative.
[j.] Mortar for masonry walls shall be Type M or S and masonry shall be laid in running bond.
[k.] If masonry block is 12" nominal thickness, wall may be unreinforced.

17. Chapter 11 Energy Efficiency. Delete all sections except N1101.1.

18. Section N1101.1.1 Criteria. Add Subsection N1 101.1.1: "N1101.1.1 Criteria. Buildings regulated by this code shall be designed and constructed in accordance with the *Polk City Energy Conservation Code*."

155.05 MECHANICAL CODE. The provisions of the State of Iowa Administrative Rule 641, Chapter 61, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Polk City Mechanical Code*. References to section numbers will be to sections in the *International Mechanical Code*.

1. Section 106.3.1 Construction documents. Delete "in two or more sets."

2. Section 106.4.1 Approved construction documents. Delete this section.

3. Section 106.4.6 Retention of construction documents. Delete the final sentence of this section.

4. Section 106.5.2 Fee schedule. Delete existing text and insert: "A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the Building Official."

5. Section 106.5.3 Fee refunds. Delete existing text and insert: "The Building Official is authorized to establish a refund policy."

6. Section 108.4 Violation penalties. Delete existing text and insert: "Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs work in violation of the approved construction documents or directive of the Building Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law."

7. Section 108.5 Stop work orders. Delete the final sentence of this section and insert in lieu thereof: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

155.06 FUEL GAS CODE. The provisions of the *International Fuel Gas Code*, 2018 edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Polk City Fuel Gas Code*, hereinafter referred to as "this code."

2. Section 106.3.1 Construction documents. Delete "in two or more sets."

3. Section 106.5.1 Approved construction documents. Delete this section.

4. Section 106.5.6 Retention of construction documents. Delete the final sentence of this section.

5. Section 106.6.2 Fee schedule. Delete existing text and insert: "A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the Building Official."

6. Section 106.6.3 Fee refunds. Delete existing text and insert: "The Building Official is authorized to establish a refund policy."

7. Section 108.4 Violation penalties. Delete existing text and insert: "Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, installs, alters, or repairs work in violation of the approved construction documents or directive of the Building Official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law."

8. Section 108.5 Stop work orders. Delete the final sentence of this section and insert in lieu thereof: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

155.07 PLUMBING CODE. The provisions of the State of Iowa Administrative Rule 641, Chapter 25 with the addition of Chapter 1, except Sections 101 and 102, Appendix A, Appendix

B, Appendix C, and Appendix D of the *Uniform Plumbing Code*, 2018 edition, as published by the International Association of Plumbing and Mechanical Officials, are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Polk City Plumbing Code*. References to code sections will be to sections of the *Uniform Plumbing Code*.

1. Section 104.4.1 Approved Plans or Construction Documents. Delete this section.

2. Section 104.4.6 Retention of Plans. Delete the final sentence of this section.

3. Section 104.5 Fees. Delete "and as set forth in the fee schedule, Table 104.5."

4. Section 104.5.3 Fee Refunds. Delete existing text and insert: "The Authority Having Jurisdiction is authorized to establish a refund policy."

5. Section 105.2.6 Reinspections. Delete "To obtain reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with Table 104.5."

155.08 ELECTRICAL CODE. The provisions of the State of Iowa Administrative Rule 661, Chapter 504 are hereby adopted by reference, subject to the following additions, modifications, insertions, and deletions, and shall be known as the *Polk City Electrical Code*:

- RESERVED -

155.09 FIRE CODE. The provisions of the *International Fire Code*, 2018 edition, as published by the International Code Council, with the addition of Appendix Chapters B, C, D, and I are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. 1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the Polk City Fire Code, hereinafter referred to as "this code"."

2. 2. Section 105.1.2 Types of Permits. Add at the end of the section: "A certificate of occupancy issued pursuant to the provisions of the International Building Code may be considered as equivalent to an operational permit. Building, mechanical, electrical, and plumbing permits issued pursuant to the provisions of their respective codes may be considered as equivalent to a construction permit."

3. 3. Section 105.4.1 Submittals. Delete "in two or more sets."

4. 4. Section 105.4.6 Retention of Construction Documents. Delete the final sentence of this section.

5. 5. Section 110.4 Violation Penalties. Delete existing text and insert: "Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be subject to penalties as prescribed by law."

6. 6. Section 112.4 Failure to Comply. Delete existing text and insert: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

7. 7. Section 308.1.4 Open-Flame Cooking Devices, Exception 2. Delete this exception.

8. 8. Section 308.1.4 Open-Flame Cooking Devices, Exception 3. Delete this exception.

9. 9. Section 507.5.1 Where Required. Delete existing text, including exceptions, and insert: "Hydrants shall be located at street intersections or as approved by the fire code official subject to the following spacing:

1. Residential: 400 foot; maximum coverage 86,000 SF.

2. Commercial: 400 foot; maximum coverage 86,000 SF.

3. No part of a proposed single-family dwelling or duplex shall be more than 250 feet from a hydrant unless said building is fully sprinklered.

4. No part of a multi-family, commercial, or industrial building shall be more than 200 feet from a fire hydrant unless said building is fully sprinklered.

Exception: For Group R-3 and Group U occupancies and building equipped with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 the distance requirements may be modified when approved by the fire code official."

10. Section 903.4.2 Alarms. Delete existing text and insert: "An approved audible and visual device, located on the exterior of the building in an approved location, shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system."

11. Section 907.1 General. Add Subsection 907.1.4: "907.1.4 Fire Alarm Control Panels (FACP). Each building shall have no more than one fire alarm control panel. Installation of the fire alarm control panel shall not exceed six feet in height, measured from the floor to the top of the control panel. Exception: Suppression system releasing panels are not required to meet the height requirements or the limitation on the number of panels."

12. Section 1009.2 Continuity and Components. Add Item Number 11: "11. Concrete, asphalt, or other approved hard-surface exterior walking surfaces."

13. Section 1010.1.6 Landings at Doors. Add Subsection 1010.1.6.1: "1010.1.6.1 Landing Frost Protection. Exterior landings required by Section 1010.1.5 to be at the same elevation on each side of the door shall be provided with frost protection."

14. Section 1028.5 Access to A Public Way. Add at the end of the section: "Components of exterior walking surfaces shall be hard-surfaced."

15. Section 1030.4 Window Wells. Add Subsection 1030.4.3: "1030.4.3 Window Well Drainage. All window wells shall be provided with approved drainage."

16. Section 57.04.2.9.6.1 Location Where Above-Ground Tanks are Prohibited. Delete existing text and insert in lieu thereof: "Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits of Agricultural, Residential, and Commercial zoning districts established by City of Polk City Code of Ordinances Chapter 165."

17. Section 5706.2.4.4 Locations Where Above-Ground Tanks are Prohibited. Delete existing text and insert in lieu thereof: "Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits of the Agricultural, Residential, and Commercial zoning districts established by City of Polk City Code of Ordinances Chapter 165."

18. Section 5806.2 Limitations. Delete existing text and insert in lieu thereof: "Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits of the Agricultural, Residential, and Commercial zoning districts established by City of Polk City Code of Ordinances Chapter 165."

19. Section 6104.2 Maximum Capacity Within Established Limits. Delete existing text and insert in lieu thereof: "The aggregate capacity of any one installation of liquefied petroleum gas storage shall not exceed a water capacity of 2,000 gallons within the limits of the Agricultural, Residential, and Commercial zoning districts established by City of Polk City Code of Ordinances Chapter 165."

(Section 155.09 – Ord. 2022-1100 – Apr. 22 Supp.)

155.10 PROPERTY MAINTENANCE CODE. The provisions of the *International Property Maintenance Code*, 2018 edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Polk City Property Maintenance Code*, hereinafter referred to as "this code."

2. Section 102.3 Application of other codes. Delete existing text and insert: "Repairs, additions, or alterations to a structure, or change of occupancy, shall be done in accordance with the procedures and provisions, as applicable, of the *Polk City Building Code, Polk City Energy Conservation Code, Polk City Existing Building Code, Polk City Fire Code, Polk City Fuel Gas Code, Polk City Electrical Code, Polk City Mechanical Code, Polk City Residential Code,* and *Polk City Plumbing Code*."

3. Section 103.5 Fees. Delete "as indicated in the following schedule" and insert in lieu thereof "in accordance with the schedule as established by the code official."

4. Section 112.4 Failure to comply. Delete existing text and insert: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

5. Section 302.4 Weeds. Insert: "6 inches."

6. Section 304.14 Insect Screens. Insert: "April 1" and "October 31."

7. Section 404.4.1 Room area. Delete "one person" and insert in lieu thereof "two persons."

8. Section 602.3 Heat supply. Insert: "October 1" and "April 30."

9. Section 602.4 Occupiable workspaces. Insert: "October 1" and "April 30."

155.11 ENERGY CONSERVATION CODE. The provisions of the *International Energy Conservation Code* as currently adopted and amended by the Iowa State Building Code Bureau shall apply to all matters governing the design and construction of buildings for energy efficiency. Administration shall be as prescribed in the *Polk City Building Code* and these regulations shall be known as the *Polk City Energy Conservation Code*. Construction or work

for which a permit is required shall be subject to third party inspections. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability. Any portion that does not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Building Official.

155.12 EXISTING BUILDING CODE. The provisions of the *International Existing Building Code*, 2018 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Polk City Existing Building Code*.

2. Section 106.1 General. Delete "in two or more sets."

3. Section 106.3.1 Approval of construction documents. Delete this section.

155.13 SWIMMING POOL AND SPA CODE. The provisions of the *International Swimming Pool and Spa Code*, 2018 Edition, as published by the International Code Council, are hereby adopted, subject to the following additions, modifications, insertions, and deletions:

1. Section 101.1 Title. Delete existing text and insert: "These regulations shall be known as the *Polk City Swimming Pool and Spa Code*, hereinafter known as "this code."

2. Section 105.3 Construction documents. Delete "in two or more sets."

3. Section 105.5.6 Retention of construction documents. Delete the final sentence of this section.

4. Section 105.6.2 Fee schedule. Delete existing text and insert: "A fee for each permit required by this code shall be paid as required, in accordance with the schedule as established by the Building Official."

5. Section 105.6.3 Fee refunds. Delete existing text and insert: "The Building Official is authorized to establish a refund policy."

6. Section 107.4 Violation penalties. Delete existing text and insert: "Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair a pool or spa in violation of the approved construction documents or directive of the code official, or of a permit issued under the provisions of this code, shall be subject to penalties as prescribed by law."

7. Section 107.5 Stop work order. Delete the final sentence of this section and insert in lieu thereof: "Any person who shall continue any work regulated by this code after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law."

[The next page is 1101]

CHAPTER 156

PERMITS AND FEES

156.01 GENERAL PROVISIONS.

1. Issuance. Upon application and approval by the Building Official, and payment of all fees provided for herein, the Clerk shall issue permits, as set forth in this chapter, to persons authorized by the City to perform the work specified in said permit.

2. Expiration. Any permit issued under the provisions of this chapter may be revoked by the Building Official. Every permit issued under the provisions of this chapter shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 180 days from the date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 120 days.

3. Additional Work. When a permit has been issued for any purpose provided for in this chapter, in no case shall additional work be put in or additional fixtures set without the approval of the Building Official, and a new permit shall be obtained for all such additional work or construction.

4. Failure To Obtain a Permit.

A. Except in emergency situations, as determined by the Building Official, where a permit is required by this chapter and work is commenced by any person prior to obtaining the required permit, the regular fees as specified in this chapter for such work shall be doubled. The payment of such double fees shall not relieve any person from fully complying with the requirements in the execution of the work or from being subject to any other penalties prescribed herein.

B. No additional permit shall be issued to any person who owes the City the double fee described in this section.

5. Payment of Fees. All fees provided for herein shall be paid to the Clerk who shall issue a receipt therefor, and such receipt shall be presented to the Building Official for any permits that are issued to any person applying therefor.

156.02 PLATTING AND OUTLOTS. A building permit shall not be issued unless the land upon which the proposed work is to be done is platted pursuant to the provisions of the Subdivision Regulations. Such platting may be waived by the Council if that body determines that no portion needed for public purposes as determined by the Council is dedicated to the City; provided, further, such platting may be waived by the Building Official, if the requested building permit is for one of the following reasons:

1. An accessory structure or addition for a one or two family residence; or

2. The removal, repair or alteration of a structure on unplatted premises; provided that there is no change in the use classification of such structure.

3. The term "alteration" shall be deemed to mean any change or modification of a structure that does not serve to increase the size of the structure, as originally built and not modified, by more than 10 percent.

4. A building permit shall not be issued permitting the construction of any building or other structure on any lot designated on any plat as an outlot, without such lot being replaced in accordance with the provisions of the Subdivision Regulations.

156.03 CONTRACTOR REGISTRATION. Any contractor applying for any permit required to be obtained under the provisions of this chapter shall, at the time of application, provide the registration number issued by the Iowa Division of Labor.

156.04 ADA. The City shall distribute to each applicant for a building permit a written notice informing the applicant that his or her project may be subject to the provisions of the *Americans With Disabilities Act* (ADA). The notice shall advise the applicant that the applicant is solely responsible for determining whether, and to what extent, the ADA may be applicable to such project. The City shall have no, and expressly disclaims any, responsibility for determining whether or to what extent any construction project may be subject to ADA requirements and neither the existence of this provision nor the issuance of any building or other permit by the City shall be interpreted or construed as any representation that the project for which such permit is issued is, or is not, subject to, or in compliance with, the terms and provisions of the ADA.

156.05 SUPPLEMENTAL INSPECTION. For the purposes of this chapter, the term "supplementary inspection" shall be defined as the provision of inspection or engineering services by persons employed by the City, in addition to regular inspections provided for by the ordinances of the City on account of, or at the request of, any owner or developer of real property located within the City. Prior to the provisions of any supplementary inspection or engineering services by the City, the owner or developer of property requesting such services shall agree in writing to pay all costs incurred by the City on account of such supplementary inspection or engineering services.

156.06 PERMIT FEES.

1. Permit Fee Required. A fee for each permit shall be paid to the Clerk prior to commencing construction.

2. Determination of Value. The determination of value or valuation under the provisions of this chapter shall be made by the Building Official The valuation to be used in computing the permit fee shall be based upon the latest valuation data sheet as published by the International Code Council (ICC).

3. Expiration of Plan Check. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation and plans submitted for checking may thereafter be returned to the applicant or destroyed. The Clerk may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan check fee.

4. Fees. All permit fees shall be in accordance with the fee schedules as established by resolution of the Council.

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CHAPTER 157

SITE PLAN

157.01 PURPOSE AND SCOPE. It is the intent and purpose of this chapter to establish a procedure by which the City can review proposed improvements of property within a specified zoning district. The site plan requirements of this chapter are designed to aid the City Building Department, Planning and Zoning Commission, and the Council in issuing building permits, promoting the most beneficial relation between the uses of land and the circulation of traffic throughout the City, encouraging adequate provisions for surface and subsurface drainage, insuring that the proposed facilities shall meet the existing City zoning and building requirements, and insuring the availability and capacity of public facilities for the proposed installation.

157.02 SITE PLAN SUBMITTAL.

1. A site plan shall be submitted as outlined in this chapter for all proposed improvement installations, including new building construction, building addition construction, accessory building construction, and parking facilities construction for proposed or existing structures and sites in any of the zoning districts.

2. Any person proposing to construct a new or an addition to a one- or two-family residential dwelling, accessory building, or site improvement for such dwellings in any zoning district shall prepare and submit to the City a site plan as required in Section 157.03 of this chapter.

3. Any person proposing the construction of structures or improvement facilities other than a new or addition to a one- or two-family residential dwelling, accessory building, parking, or site improvement for such dwelling in any zoning district, shall prepare and submit to the City a site plan as required in Section 157.04 of this chapter.

157.03 SITE PLAN REQUIREMENTS FOR ONE- AND TWO-FAMILY RESIDENTIAL DWELLINGS. The Planning and Zoning Commission shall not review plans of single-family detached or two-family residential dwellings unless requested by the Building Inspector. When so requested, completed plans for single-family detached or two-family residential dwellings shall be provided to the Planning and Zoning Commission at least five business days in advance of their regularly scheduled meeting. Site plans of residential dwellings that are part of a townhome or condominium development shall be required to comply with Section 157.04 of this chapter and the completed work shall be reviewed by the Public Works Director for compliance with the approved site plan.

157.04 SITE PLAN REQUIREMENTS FOR OTHER THAN ONE- AND TWO-FAMILY RESIDENTIAL DWELLINGS.

1. Procedure.

A. Any person proposing to develop, improve, or alter any tract or parcel of land within any district by construction of facilities, additions, or renovations that impact the exterior, other than one- and two-family residential dwelling units, shall prepare and submit to the Planning and Zoning Commission a site plan together with the required filing fee according to a schedule adopted from time to time by resolution of the City Council.

B. The applicant shall submit three copies of the site plan to the City Clerk no less than 15 days prior to the Planning and Zoning Commission (P&Z) meeting at which any action is to take place. The Clerk shall deliver copies to the City Engineer and the City Building Department for review and comments. The City Engineer and the City Building Department shall review such plan for conformance with these site plan requirements. Their review, comments and recommendations shall be provided to the applicant and presented at the next following regular Planning and Zoning Commission meeting. The applicant shall submit 10 copies of the site plan, revised if necessary to address review comments, to the City Clerk no less than five days prior to said P&Z meeting for delivery to the Planning and Zoning Commission.

2. Planning and Zoning Action. Following the Engineer's and Building Department's review, the Planning and Zoning Commission, at its next regular meeting, shall approve the site plan as submitted if the same conforms to all State and local regulations and ordinances. If the site plan fails to conform to all State regulations and applicable ordinances, the Commission shall state the reasons for its disapproval and shall return a copy to the applicant for revision in accordance with the action taken. The applicant shall then submit the revised copy to the Building Department and City Engineer for their review and comments for presentation at the next regular Planning and Zoning Commission meeting. Upon approval by the Planning and Zoning Commission, the site plan shall be presented to the Council at its next regular meeting.

3. Payment of Costs. In addition to any other fees set out in this chapter, the applicant shall be responsible for just and reasonable costs incurred by the City during the course of the site plan approval for work deemed necessary by the City to assure proper construction in accordance with applicable standards and ordinances.

4. Required Information. Site plans which are submitted for review shall be drawn to a scale of one inch = 50 feet or larger and shall include as a minimum the following information:

A. Narrative Information:

(1) Name which the development or improvement shall be called.

(2) Name and address of the owner of the property.

(3) Name and address of the developer or builder.

(4) Name and address of person or firm preparing the site plan.

(5) Address of the site.

(6) Legal description of the site, including area.

(7) Present zoning classification of the site.

(8) Proposed zoning of the site.

(9) Existing land use of the site.

(10) Future land use of the site, based on the Comprehensive Plan.

(11) Development schedule with approximate starting date, staging of development and completion dates.

(12) Total area of the proposed site.

(13) Total number and types of all buildings with:

a. Number of stories of each existing or proposed building.

b. Total floor area of each building.

c. Total number and types of dwelling units.

d. Estimated number of employees for each proposed use where applicable.

(14) Total number of parking spaces required per Section 165.17 and 165.18, with parking calculations for each use on the property.

(15) Total number of parking spaces proposed in the site plan, including the required handicap accessible stalls.

(16) Percentage of open space required, if any, according to Section 165.06.

(17) Total area in square feet of the portion of the property devoted to buildings, pavements, and green space along with the percentage of each in relation to the total area of the site.

(18) Total number of trees required, with calculations for open space planting, parking area landscaping and buffer screens, according to Section 165.19.

(19) Evidence concerning the effect of the project on surrounding property.

B. The following items are to be shown in illustration on the site plan:

(1) A vicinity sketch at a suitable scale showing the general location of the property, existing land uses adjoining the property, and adjacent existing facilities such as buildings, parking lots, etc.

(2) A certification by a licensed land surveyor shall be on or accompany the site plan, showing that the dimensions and bearings on the property lines are accurately shown.

(3) All existing utilities shall be shown, including location, size, and capacity of existing public utilities.

(4) Proposed connections to existing utilities.

(5) Existing buildings, rights-of-way, street improvements, railroads, easements, drainage courses, streams, and wooded areas shall be shown.

(6) Building setback lines required by the zoning district and the average setback of buildings within 200 feet of the proposed building where applicable.

(7) Location, grade, and dimension of all existing and proposed paved surfaces, including private streets, driveways, parking areas, sidewalks, stoops, utility pads, and recreation trails.

(8) Traffic circulation and parking plans showing the location and dimensions of all existing and all proposed parking stalls, loading areas, entrances, and exit drives, dividers, planters, and frontage roads, and other similar permanent improvements.

(9) Location and type of any existing and proposed signs, including dimensions and elevations of proposed signage.

(10) Location and type of any existing or proposed lighting.

(11) Location of existing trees six inches or larger in diameter.

(12) Location of all proposed trees, shrubs, and landscaping beds, along with a plant schedule. Required deciduous trees shall be no less than one and one-half inch caliper; required coniferous trees shall be no less than six feet tall at planting.

(13) Location, amount, and type of any proposed landscaping, fences, walls, or other screening and materials to be used.

(14) Location, size, and detail of all solid waste enclosures.

(15) All existing and proposed sidewalks and pedestrian traffic facilities.

(16) Existing contours at two-foot intervals and in no case shall there be less than two contours shown.

(17) Proposed elevations of structures, improvements, proposed contours, and any temporary or permanent erosion control measures.

(18) Site plan shall include a Stormwater Management plan certified by a professional engineer licensed in the State of Iowa to show the area, slopes, runoff calculations, detention calculations, and pipe size and velocity calculations for the site. This plan shall also indicate the connections to existing storm sewers or drainage ditches and the courses surface water shall take for exit from the property.

(19) Site plan shall include a Traffic Impact Study in accordance with Chapter 170, Subdivision Regulations, if required by the City Engineer.

(20) Type and location of all proposed paved surfaces.

(21) Site plan shall include building elevations for all facades of each building with sufficient information to demonstrate compliance with the Building Code for permanency and strength of materials in

proportion to the aesthetic characteristics. Such evidence should include architectural building elevations showing the architectural character, type of materials, and indication of colors.

(22) The Council reserves the right to condition any project in any reasonable manner that they deem necessary to ensure compatibility with the surrounding properties in order to promote quality development.

(23) Right-of-way dedication and easement information, if applicable.

(24) Construction drawings for public improvements, if applicable.

157.05 APPEALS. If the site plan is disapproved, the applicant may, upon written application to the Planning and Zoning Commission, appeal in whole or in part any condition or requirement the Commission would require for its approval. The application for appeal and the site plan as submitted shall be presented to the Council at its next regular meeting for action. The application for appeal must include specific reasons and conditions that exist for variance from the applicable codes or ordinances and variations from the Planning and Zoning Commission recommendations.

157.06 COUNCIL ACTION. Upon submittal to the Planning and Zoning Commission, the Council, at its regular meeting, shall review the Commission's recommendations for disapproval, accompanied with the applicant's appeal request. The Council shall also review the Building Department and City Engineer's review, comments and recommendations. The Council shall thereupon take action either approving or disapproving the site plan. Upon approval, the Council shall direct the Building Department to issue the proper building permits. The applicant shall submit a copy of the approved site plan on a reproducible medium to the City Engineer. A site plan that has been denied by the Planning and Zoning Commission and the Council may be resubmitted to the Planning and Zoning Commission by the applicant with respect to the terms of this chapter and upon payment of the appropriate fees.

157.07 SITE PLAN CERTIFICATE. All site plans required under this chapter, when submitted, shall be accompanied by a certification from a licensed engineer or architect.

157.08 DESIGN STANDARDS. The design standards provided herein are to insure the orderly and harmonious development of property in such a manner as will safeguard the public's health, safety and general welfare. All site plans submitted shall conform to the Statewide Urban Design and Specifications (SUDAS) and the following:

1. The design of the proposed development shall make adequate provisions for surface and subsurface drainage for connections to storm sewer lines, so designed to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjoining or surrounding property. Provisions shall be in compliance with SUDAS, Chapter 2-Stormwater, a Storm Water Management Plan and report, including detention. Storm water management facilities shall be privately maintained, when serving multiple properties, shall be covered by a private storm water management facility maintenance covenant and permanent easement agreement, including requirements for detention.

2. The proposed development shall be designed and located within the property in such a manner as not to unduly diminish or impair the use and enjoyment of adjoining property and to this end shall minimize the adverse effect on such adjoining properties

from automobile headlights, illumination of required peripheral yards, refuge containers, and imperilment of light and air. For purposes of this section, the term "use and enjoyment of adjoining property" means the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term "use and enjoyment of adjoining property" means those uses permitted under the zoning district in which adjoining property is located.

3. The proposed development shall conform to all applicable provisions of the City building codes, ordinances, and SUDAS.

4. The proposed development shall have such entrances and exits upon adjacent streets and such internal traffic circulation pattern as will not unduly increase congestion on adjacent surrounding public streets. For commercial and industrial uses, SUDAS Type A concrete driveway with radii shall not be permitted on public streets. Such driveway connections to public streets shall be in accordance with SUDAS detail for concrete driveway, Type B with radii unless otherwise specifically approved in writing by the Public Works Director or City Engineer. Driveway connections for multiple-family uses shall be reviewed on a case-by-case basis and shall be as required by the City Engineer after consultation with the Public Works Director. Driveway approaches for multi-family, commercial, and industrial uses shall conform to SUDAS detain for concrete driveway, Type B with radii. Prior to saw cutting or grinding the public street or paving a driveway connection, the contractor shall contact the City Public Works Department for approval and inspection.

5. All electrical, telephone, and other public utilities shall be placed underground where required under applicable subdivision regulations or wherever installation of the same is reasonably practicable.

6. The proposed development shall be in conformity with the standards of the comprehensive plan and with recognized principles of civic design, land use planning and landscape architecture.

7. All lighting in connection with the proposed development shall conform to SUDAS and the following:

A. General Standards.

(1) Manufacturer's cut sheets including foot-candle contours, light fixture details, and 17.5 watt LED (100 watt incandescent) bulb wattage are required for all light fixtures on the site.

(2) Flashing or pulsating lights, moving lights, high intensity lights, strobe lights or rotating beacons shall be prohibited out of doors or visible from the outdoors and all zoning districts except when otherwise legally displayed as emergency lights or warning lights.

(3) Any use of neon lights shall be considered a sign and shall be designed in harmony with the surrounding area and in an aesthetically sound manner, provided the neon lights are not visible from residential zoning districts.

(4) The park and recreational department is exempt from the lighting policy.

B. Parking Lot Lights. Parking lot lights shall be in accordance with SUDAS, Chapter 11-Street Lighting. All lighting used to illuminate off-street parking areas shall be so shielded or otherwise optically controlled so as to

provide glareless illumination in such manner as not to create a nuisance to adjacent residentially zoned property or a public street. Forward-throwing floodlights are not allowed. Fixtures shall be shoebox-style with a maximum bulb wattage of 70 watts LED and a 20' tall mounting height.

C. Building Lights.

(1) Wall Pack Lights.

(a) Wall pack lighting is allowed; however, such lighting may not be a forward-throwing flood light. Further, wall pack lights are not permitted on the wall of any nonresidential building that faces an R-1 or R-2 district with the exception of one 17.5 watt LED max (100 watt incandescent) security light mounted above or beside an exit door.

(b) The maximum bulb wattage shall be 28 watts LED (150 watt incandescent).

(2) Canopy Lights.

(a) The maximum bulb allowed underneath a canopy is 70 watts LED. Fixture shall not extend below the canopy soffit by more than 2.5 inches.

(b) An isometric map is required illustrating average foot-candles across the entire site, particularly under the canopy. The average illumination must be less than 50 foot-candles under the canopy. The maximum illumination under the canopy must be 40 foot-candles. However, the canopy height is reviewed by staff and taken into consideration when reviewing the illumination on the site.

(3) Soffit Lights.

(a) Soffit lighting is allowed but must be entirely contained within the soffit itself. No bulb can be visible.

(b) A maximum 17.5 watt LED (100 watt incandescent) bulb is allowed for soffit lighting.

(4) Gooseneck Lights. For the purposes of down-lighting only, gooseneck lighting is allowed when the bulb itself is not visible and the wattage of the bulb is low.

D. Site Lighting.

(1) The use of flood lights is not encouraged but is allowed as up-lighting only for the purpose of illuminating items such as flag poles or the building itself. The flood light fixture must be screened from view with landscape materials.

(2) Lighting bollards with diffusers are allowed.

157.09 ARCHITECTURAL STANDARDS. The requirements, guidelines and standards set forth in this section shall apply to any development or redevelopment of property within the zoning districts listed in Section 165.04 of this Code of Ordinances and within the City.

1. Statement of Intent. In the interest of promoting the general welfare of the community and to protect the value of buildings and property, the image and character of a community is considered important. It is recognized that a community should be visually attractive, as well as financially prosperous and the manner in which a use is accomplished is as important as the use. The quality of architecture and building construction is important to the preservation and enhancement of building and property values, prevention of the physical deterioration of buildings and the promotion of the image of the community and the general welfare of its citizens. Architectural design and use of materials for the construction of any building shall be subject to the approval of the Council upon input and recommendations of the Planning and Zoning Commission.

2. Architectural Standards by Zoning District and Use. Architectural plans for buildings shall be submitted simultaneously with an application for site plan review as required in this chapter. Documentation to be submitted shall include building elevations showing the building's design and exterior materials and any other information as deemed necessary to make a recommendation for approval. Detailed information relating to any lighting or signage on the structure shall be provided, including backlit material or accent lighting and shall be in conformance with Chapter 166 of this Code of Ordinances. The architectural design shall be in accordance with the standards as contained in this section and shall be in compliance with the following general provisions:

A. The architectural theme of any development within a C-2, C-3 or C-4 District shall be dominated with permanency and strength of materials in proportion to the aesthetic characteristics of the architectural bulk, shape, materials and color, and shall be compatible with other structures within the immediate surrounding development area and the zoning district. The buildings within this district, both as principal permitted uses and accessory uses, shall be designed and constructed with such materials as may be necessary in order to assure durability, permanency and continued aesthetic quality. The general manner in which any use and development is accomplished shall be compatible to and in harmony with the character of the zoning district as established or proposed. Existing or potential land use conflicts shall be avoided through proper orientation, open space, setbacks, landscaping and screening, grading, traffic circulation and architectural compatibility.

B. Canopies, awnings and similar portico coverings for windows and walkways are encouraged for added architectural character.

C. Pitched roofs with gables, hips, dormers and similar offsetting and intersecting roof lines are desirable for increased architectural interest.

3. Quality of Construction.

A. Wall Area Defined. In the application of these requirements, some standards are based upon a percentage of the wall area. The wall area is defined as the total square footage of the exterior elevation of the building, excluding glass that is vertical to the ground. It shall contain a gable end or dormer in the same plane of view. It does not contain the elevation area of a pitched or mansard roof, but would include the area of a parapet wall. The non-glazed area of all doors, including overhead doors, shall be considered part of the total wall area. Each elevation must comply with the standards unless otherwise provided for herein or as amended or approved by the Council.

B. In the C-TS District, all building facades facing a public street shall have a minimum of 75 percent of the wall area constructed of brick or an acceptable alternative as defined herein. All building facades not facing a public street shall have a minimum of 50 percent of the wall area constructed of brick or acceptable alternative.

C. In the C-1, C-2, C-3 and C-4 Districts, for all non-single-family or two-family residential buildings, all building facades facing a public street shall have a minimum of 60 percent of the wall area constructed of brick or an acceptable alternative as defined herein. All facades of such buildings that are not facing a public street shall have a minimum of 50 percent of the wall area constructed of brick or acceptable alternative.

D. In PUD Districts, architectural design standards, including the percentage of brick required for various building types and facades, shall be as approved with the PUD Master Plan and/or rezoning ordinance.

E. In the R-2 District, for all non-single-family or two-family residential buildings, all residential building facades facing a public or private street shall have a minimum of 15 percent of the applicable wall area constructed of brick or an acceptable alternative as defined herein.

F. In the R-2A District, for all non-single-family or two-family residential buildings containing four or fewer dwelling units, all building facades facing a public or private street shall have a minimum of 15 percent of the applicable wall area constructed of brick or an acceptable alternative as defined herein. For all non-single-family or two-family residential buildings containing more than four dwelling units, all building facades facing a public or private street shall have a minimum of 30 percent of the applicable wall area constructed of brick or an acceptable alternative as defined herein.

G. In the R-3 District, for all non-single-family or two-family residential buildings containing four or fewer dwelling units, all building facades facing a public or private street shall have a minimum of 15 percent of the applicable wall area constructed of brick or an acceptable alternative as defined herein. For all non-single-family or two-family residential buildings containing more than four dwelling units, all building facades facing a public or private street shall have a minimum of 30 percent of the applicable wall area constructed of brick or an acceptable alternative as defined herein.

H. For all nonresidential buildings in residential districts (other than permitted accessory structures), all building facades facing a public or private street shall have a minimum of 60 percent of the applicable wall area constructed of brick or an acceptable alternative as defined herein. All facades of such buildings that are not facing a public or private street shall have a minimum of 50 percent of the applicable wall area constructed of brick or acceptable alternative. Exceptions may be recommended to the Council by the Planning and Zoning Commission to preserve any existing architectural theme or historical ambiance, which may or may not be approved by the Council.

I. Existing non-conformance renovation or addition exceeding 50 percent of building value or no more than 25 percent square footage of gross floor area must bring entire building into conformance.

4. Acceptable Finish Materials for Exterior Building Walls.

A. Acceptable Materials. For the purposes of this section, the following materials are deemed sufficient to provide for permanency and strength of materials in proportion to the aesthetic characteristics of architectural bulk, shape and materials:

(1) Brick, stone, marble, granite, and other similar masonry veneers and fascia.

(2) Glass and glass window panel systems.

(3) Aluminum, steel, vinyl, fiber cement board, solid wood, engineered wood, and similar lap siding when in character with the architectural characteristics of the structure.

(4) Textured, fluted or similar exposed concrete block masonry materials.

(5) Textured, concrete tilt-up panel construction systems.

(6) Stucco and staccato board and trim.

(7) Exceptions to the above may be granted by the Council in order to be in character with surrounding development.

B. Acceptable Alternative Materials Where Brick is Required. On exterior walls, where a percentage of the wall area is required by this section to be constructed of brick or an acceptable alternative, the acceptable alternatives are defined as follows:

(1) Brick, including thin brick veneer systems.

(2) Stone, including marble, granite, or cultured stone.

(3) Architectural concrete or stone panels.

(4) Architectural steel panels.

(5) Textured concrete block.

(6) Other acceptable materials deemed suitable by the Council upon recommendation from the Planning and Zoning Commission.

C. Unacceptable Materials. The following are not deemed sufficient to provide permanency and strength of materials in proportion to the aesthetic characteristics of the architectural bulk, shape and materials when not specifically a part of an approved architectural character or theme:

(1) Plywood and similar sheet, untextured wood coverings.

(2) Particle board, pressed board and similar composite siding materials.

(3) Common concrete block when used for exterior fascia, whether painted or not.

(4) Vertical steel siding.

5. Additional Architectural Elements. In order to reduce the negative aesthetic impacts of large buildings, additional architectural elements shall be incorporated into the overall building design and shall incorporate the following:

A. Non-single-family buildings proposed in residential districts shall incorporate residential design elements such as pitched roofs, dormers, cupolas, or other similar roof elements into the building design in order to minimize the aesthetic impact of the differing uses.

B. Multiple-family buildings shall be designed in a manner compatible with residential uses in the vicinity. Architectural design for multiple-family buildings shall attempt to lessen the plainness of appearance, which can be characteristic of large residential buildings. Multiple-family buildings with plain walls and boxy appearance are not encouraged. Their architectural design shall use a combination of the following design techniques, as appropriate:

(1) Exterior building materials shall employ a variety of textures and colors and window and door details and be in compliance with Paragraphs F and G of Subsection 2 of this section, as applicable.

(2) The roof shall be principally of gable, hip style or similar residential design.

(3) The structures' perimeter shall vary when multiple buildings are proposed.

C. Buildings proposed in commercial districts that are adjacent to residential developments are recommended to include an articulated roofline, giving emphasis to architectural elements that will help divide the mass of a large building into smaller, identifiable pieces. Flat roof buildings shall not be encouraged. Building architectural design within these districts, and including PUD Districts constituting similar uses, shall recognize the importance of material strength and permanency through the selection of building materials, and the principle of structural strength and permanency shall dominate the structural and exterior materials and components in compliance with Subsection 2 of this section.

D. Buildings shall not be designed or orientated to expose loading docks, service areas, HVAC elements, garbage dumpsters, or nonresidential overhead doors to the public rights-of-way.

(1) Buildings proposed in commercial districts adjacent to residential developments or districts shall not be designed or orientated to expose HVAC elements, garbage dumpsters, or nonresidential overhead doors toward the adjacent residential developments or areas.

(2) If it is not feasible to design or orient the loading docks, service areas, or similar operations away from the residential developments, areas or public rights-of-way, additional landscape buffering, screening walls, fences, and setbacks may be recommended by the Planning and Zoning Commission to the Council which may or may not approve the recommendation.

E. Screening shall be provided for roof-mounted HVAC units to conceal such units from public view.

6. General Provisions. Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. The Council, in its sole discretion and after receiving a recommendation from

the Planning and Zoning Commission, may approve additional primary materials on a case-by-case basis, provided that such materials exhibit the structural strength and permanency desired, contain sufficient architectural relief, and do not detract from the desired aesthetic character of the building and the surrounding area.

157.10 APPROVAL AND PENALTIES.

1. No building permits shall be issued for any building or development construction that is subject to this chapter until a site plan has been submitted and approved for each development in accordance with this chapter. No certification of occupancy shall be issued for such construction or development until all terms and conditions of the approved site plan have been satisfactorily completed or provided for with the approval of the City.

2. Construction, grading, or other development activities for those uses listed above shall be carried out only in substantial compliance with the approved site plan and any conditions or restrictions attached thereto. Except for the construction contemplated and approved as a part of the site plan, there shall be no construction within the development area unless the person proposing such construction shall have first obtained approval of the Planning and Zoning Commission. Any application for approval of subsequent construction shall be accompanied by a fee in accordance with the fee schedule established by resolution of the Council.

3. A site plan shall become effective upon approval by the Council, pursuant to this chapter. The approval of any site plan required by this chapter shall remain valid for one year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this chapter "actual construction" means that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of additional building permits, letting of contracts, grading of the property, or stockpiling of materials on the site do not constitute actual construction. Site plans without on-going construction activity on the site plan improvements for a period of one year shall expire and terminate unless the Council has, upon written notice by the developer, granted an extension for a period not to exceed one additional year.

4. Appropriate actions and proceeding may be taken by law or in equity to prevent any violations of these regulations, to prevent unlawful construction, to recover damages, to restrain, to correct or abate a violation, to prevent illegal occupancy of a building, structure or premises.

A. Failure to maintain a site in accordance with an approved site plan shall constitute a violation of this chapter and a failure to correct such a violation within 30 days following notice of violation shall render the site plan and any certificates of zoning compliance and occupancy subject to cancellation.

B. Failure to acquire site plan approval where required, prior to construction, alteration, or other modification of a building, sign or structure, shall constitute a violation of this chapter. Failure to correct such a violation within 30 days following notice of violation shall render the site plan and any certificates of zoning compliance and occupancy subject to cancellation. In addition, the Building Official shall post a stop-work order relating to work in the process of completion outside the requirements of this chapter.

C. Penalties for a violation of this chapter or failure to comply with any of its requirements shall constitute a municipal infraction as set forth in Chapter 3 of this Code of Ordinances. Each day that a violation occurs shall constitute a separate offense. In the event that the City seeks court intervention for violation of any provisions of this chapter, the City may seek reimbursement for reasonable attorney fees and administrative costs. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

5. It is unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation in or any provisions of this chapter, or any amendment or supplement thereto. Any person violating any regulation in or any provision of this chapter or of any amendment or supplement thereto shall be in violation of this Code of Ordinances and each and every day during which illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues may be deemed a separate offense.

6. Minor deviations to the approved site plan may be approved by the City Manager.

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CHAPTER 158

MAILBOXES

158.01 PURPOSE. The City's right-of-way is held by the City primarily for the purpose of pedestrian and vehicular passage and for the City's provision of essential public safety services, including police, fire and emergency medical response services, and public health services, including sanitary sewer, water and storm drainage. Further, the purpose is to eliminate parking problems on streets and improve the ability of the City to remove snow from streets. This chapter provides standards for mailboxes in order to maintain the safety and the visual character of the City's rights-of-way.

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

1. "Breakaway support" means a supporting post which shall be no larger than a four-inch by four-inch wood post or a metal post with a strength no greater than a two-inch diameter schedule 40 steel pipe and which is buried no more than 24 inches deep. Such a support post shall not be set in concrete unless specifically designed as a breakaway support system as defined in *A Guide for Erecting Mailboxes on Highways* published by the American Association of State Highway and Transportation Officials, current edition (AASHTO).

2. "Clear zone" means an unobstructed flat area adjacent to the traveled portion of a roadway that is used for the recovery of errant vehicles, as defined by AASHTO.

3. "Cluster-style mailbox" means a style whereby mailboxes, meeting the specifications of the United States Postal Service (USPS) with the inscription plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," are assembled and grouped together on a single area of land so that they are regarded as one unit. Cluster-style mailboxes must be manufactured cluster-style mailboxes approved by both the City and the USPS.

4. "Curbside mailbox" means a mailbox consisting of a lightweight sheet metal or plastic box meeting the specifications of the United States Postal Service (USPS) with the inscription plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," which is erected at the edge of a roadway or curbside of a street and is mounted on a breakaway support post, and is intended or used for the collection of mail and is to be served by a mail carrier from a vehicle.

5. "Custom-built cluster mailbox" means a multiple number (two or more) of mailboxes erected at the edge of a roadway or curbside of a street being constructed of materials that do not meet the definition of a "cluster-style mailbox" and has no "breakaway support."

6. "Custom-built individual mailbox" means a mailbox erected at the edge of a roadway or curbside of a street constructed using materials that do not meet the definition of a "curbside mailbox" and "breakaway support."

158.03 CLUSTER-STYLE MAILBOX REQUIRED IN NEW DEVELOPMENTS.

1. Residential Developments. All new residential developments platted or in the site plan stage after the enactment of the regulations contained in this chapter which are situated on any cul-de-sac, street, avenue, or other roadway that is maintained or approved by the City and receive curbside delivery of mail shall have cluster-style mailboxes. Any housing development constructed and already receiving mail service before the regulations in this chapter are enacted is not required to have cluster-style mailboxes.

2. Commercial Developments. All new commercial developments platted or in the site plan stage after the enactment of the regulations contained in this chapter and which wish to receive delivery of mail shall make provisions for the delivery of their mail within the development and off the public streets or rights-of-way where possible. Where there is more than one commercial establishment, cluster-style mailboxes will be required. Approval is required by the U.S. Post Office as well as the Planning and Zoning Commission.

158.04 CLUSTER-STYLE MAILBOX REQUIREMENTS. Cluster-style mailboxes serving housing developments situated on any public street or roadway shall be located between the sidewalk and curb, outside of the three-foot clear zone. Cluster-style mailboxes shall have a four-foot concrete access from the public street, unless the mailbox is in reasonable proximity to an ADA ramp and the public sidewalk. The location of the cluster-style mailboxes shall not exceed 600 feet from the property line of those residents served by that cluster-style mailbox. Cluster-style boxes shall typically be located on property lines on the same side of the street where parking is allowed. The location of the cluster style mailbox shall be sited and become part of the requirements of Chapter 170, Subdivision Regulations. Further, prior to submission of the preliminary plat, approval of the USPS must be obtained and attached with the plat. In the case where the final plat is approved with a performance bond, that bond shall cover the mailboxes and the installation shall occur prior to any occupancy permit being issued for a home in the plat. The cost of installation, including but not limited to box units and concrete pad, shall be borne by the developer, and subsequent maintenance shall be carried out by the USPS.

158.05 VISIBILITY; OBSTRUCTION. All cluster-style mailboxes must be erected:

1. Away from the intersection of any street and, in no case closer than 100 feet measured from the center of the intersection in order to prevent obstruction of free and clear vision; and

2. Away from any location where, by reason of the position of, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.

158.06 DRIVEWAY OR STREET ACCESS LIMITATIONS. No driveway or street access shall be constructed within five feet of the cluster-style mailboxes.

158.07 CURBSIDE MAILBOX REQUIREMENTS. While curbside mailboxes may be installed in developments constructed and already receiving mail service before the adoption of this chapter, the mailbox owner must comply with the following installation requirements:

1. The bottom of the mailbox shall be 41 inches to 45 inches from the road surface. On streets without curbs, the bottom of the mailbox shall be 48 inches from the edge of pavement, as defined by USPS installation requirements.

2. Lateral placement of the face of the mailbox shall be six inches minimum from the back of the curb, as defined by USPS installation requirements.

3. The mailbox support post shall be of a "breakaway support" design, as defined by AASHTO.

4. The post-to-box attachment shall be of sufficient strength to prevent the box from separating from the post if a vehicle strikes the post.

5. Property owner shall be responsible for the maintenance of the curbside mailbox.

158.08 CUSTOM-BUILT INDIVIDUAL MAILBOX REQUIREMENTS. A custom-built individual mailbox may not be installed in developments constructed and already receiving mail service before the adoption of this chapter. If a custom-built individual mailbox is existing at the time of the enactment of the ordinance codified in this chapter, the custom-built mailbox will be grandfathered, and allowed to stay. However, should the mailbox sustain 50 percent damage, the custom-built mailbox may not be replaced. A custom-built mailbox must conform to the following requirements and rules:

1. Property owner shall be responsible for the maintenance of the custom-built mailbox.

2. If the mailbox is damaged beyond use by the City, a standard curbside mailbox and breakaway post as defined in this chapter will be provided or the property owner can be reimbursed up to a maximum replacement amount set by Council.

158.09 CUSTOM-BUILT CLUSTER-STYLE MAILBOX REQUIREMENTS. A custom-built cluster mailbox may not be installed unless specifically approved by Council on a Site Plan in accordance with Chapter 157 of this Code of Ordinances. A custom-built cluster-style mailbox must conform to the following requirements and the rules:

1. Homeowner's Association owner shall be responsible for the maintenance of the custom-built mailbox.

2. The City shall not be responsible for any damage to custom-built cluster mailboxes.

158.10 RESPONSIBILITIES OF PROPERTY OWNER. Any type of mailbox located in the City right-of-way is subject to damage or destruction, at any time, as a result of the City or a person with a utility easement entering upon the City right-of-way to construct, repair or maintain the utilities located in the City right-of-way or as a result of the City engaging in activities to maintain the public street or right-of-way, such as snow removal, pavement repair or street cleaning. If a curbside or cluster-style mailbox located in the City right-of-way is damaged during such activities, the City or the utility that damaged the mailbox shall replace said mailbox if it has been approved for installation by the USPS with the proper markings inscribed "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL." Property owner may choose to be reimbursed in full or have the City reinstall a new mailbox meeting stated requirements. If the property owner chooses to purchase an approved mailbox and be reimbursed, the City will install the mailbox at the property owner's request.

158.11 SNOW REMOVAL. It is the responsibility of the adjoining property owner or occupant to clear the snow and accumulations from the sidewalk and pad around the cluster-style mailboxes within 24 hours after the snow has ceased to fall.

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CHAPTER 159

SMALL WIND ENERGY CONVERSION SYSTEMS

159.01 PURPOSE. The purpose of this chapter is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The City finds these regulations are necessary to ensure that Small Wind Energy Conversion Systems are appropriately designed, sited and installed.

159.02 DEFINITIONS. For purposes of this chapter, the following definitions shall apply:

1. "dB(A)" means the sound pressure level in decibels. Refers to the "a" weighted scale defined by the American National Standards Institute (ANSI). A method for weighting the frequency spectrum to mimic the human ear.

2. "Decibel" means the unit of measure used to express the magnitude of sound pressure and sound intensity.

3. "Height, total system" means the height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.

4. "Lot" or "parcel" means any legally established lot or parcel which contains or could contain a permitted or permitted conditional principal use as provided by Chapter 165 of this Code.

5. "Off-grid" means an electrical system that is not connected to utility distribution and transmission facilities or to any building or structure that is connected.

6. "Qualified professional installer" means an installer that is certified by the manufacturer of the SWECS as qualified to install and maintain that manufacturer's SWECS according to the manufacturer's recommendations.

7. "Shadow flicker" means changing light intensity caused by sunlight through the moving blades of a wind energy conversion system.

8. "Small wind energy conversion system (SWECS)" means a wind energy conversion system which has a nameplate rated capacity of up to 20 kilowatts for residential uses and districts and up to 100 kilowatts for commercial and industrial districts and which is incidental and subordinate to a principal use on the same parcel. Any request for a larger kilowatt than is allowed by this section shall be evaluated as a part of the Site Plan review process. A system is considered a SWECS only if it supplies electrical power solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the *Iowa Administrative Code*, as amended from time to time.

9. "Small wind energy conversion system, free standing" means a SWECS which is elevated by means of a monopole tower only and is not located on another supporting

structure except that the tower shall have an appropriately constructed concrete base. Guyed, lattice, or other non-monopole style towers shall not meet this definition.

10. "Small wind energy conversion system, horizontal axis" means a SWECS that has blades which rotate through a horizontal plane.

11. "Small wind energy conversion system, building mounted" means a SWECS which is securely fastened to any portion of a principal building in order to achieve desired elevation, whether attached directly to the principal building or attached to a tower structure which is in turn fastened to the principal building.

12. "Small wind energy conversion system, vertical axis" means a SWECS that has blades which rotate through a vertical plane.

13. "Tower" means the vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

14. "Utility" or "utilities" means all underground or overhead utility lines and appurtenances including municipal water, sanitary sewers, and storm sewers as well as franchise utility services such as electric, natural gas, telephone, cable, communications and similar services.

15. "Wind energy conversion system (WECS)" means an aggregation of parts including the foundation, base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g., wind charger, windmill or wind turbine.

16. "Wind turbine generator" means the component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

159.03 GENERAL REGULATIONS.

1. Conditional Use. A small wind energy conversion system (SWECS) shall be allowed only as a conditional accessory use to a permitted principal use as defined in Chapter 165 of the Municipal Code.

2. Zoning. SWECS may be allowed in all zoning districts subject to the provisions contained herein and elsewhere within City Code.

3. A WECS that does not meet the definition of a SWECS is prohibited within the City.

4. Permit Required.

A. It shall be unlawful to construct, erect, install, alter or locate any SWECS within the City, unless a permitted conditional use permit has been obtained from the City Manager. No such permit shall be issued until such time as a Site Plan has been approved by City Council, upon recommendation of the Planning and Zoning Commission.

B. Site Plan approval for a SWECS may be revoked by resolution of the City Council any time the approved system does not comply with the rules set forth in this chapter and the conditions imposed by the City Council.

C. The owner/operator of the SWECS must also obtain any other permits required by other federal, State, and local agencies/departments prior to constructing the system.

D. Any new structure proposed to be located within the fall zone of any existing SWECS shall require approval of an amended Site Plan for the SWECS prior to a building permit being issued for said structure unless said structure was shown on the approved Site Plan.

5. Number of Systems per Zoning Lot.

A. Residential Use. No more than one freestanding SWECS may be placed on any parcel or lot for residential use. Building mounted SWECS shall be prohibited on any parcel or lot containing a one- or two-family use unless an Iowa licensed structural engineer has completed a written analysis and certified the roof can handle the weight and stress of the SWECS without damage to the structure. If such analysis recommends improvements be made to the existing roof structure to support the SWECS, such improvements shall be required prior to issuance of the permit.

B. Multi-family Residential Use, Commercial, Industrial, and Institutional Use. No more than one freestanding SWECS may be placed on any parcel or lot with a multi-family residential, commercial, industrial, or institutional use that is taller than the tallest existing principal building located on said parcel or lot. Additional freestanding SWECS which conform to setback requirements contained herein and which are no taller than the tallest existing principal building located on said parcel or lot may be allowed on lots over seven acres in size if approved by City Council. Building mounted SWECS may be allowed within the parameters herein below provided an Iowa licensed structural engineer has completed a written analysis and certified the roof can handle the weight and stress of the SWECS without damage to the structure. If such analysis recommends improvements be made to the existing roof structure to support the SWECS, such improvements shall be required prior to issuance of the permit.

C. Mixed Use. Any building containing both residential and commercial uses or described as a "Mixed Use" building, shall be considered a commercial use for the purposes of this chapter.

6. All small wind turbines shall be certified by the Small Wind Certification Council (SWCC) as having met the requirements of the American Wind Energy Association (AWEA) for performance and safety.

7. Tower. Only monopole towers shall be permitted for freestanding SWECS. Lattice, guyed, or towers of any other type shall not be considered to be in compliance with this chapter.

8. Color. Freestanding SWECS shall be a neutral color such as white, sky blue or light gray. Building mounted SWECS shall match the color of the building on which it is mounted. Other colors may be allowed at the discretion of the City Council upon recommendation of the Planning and Zoning Commission. The surface shall be non-reflective.

9. Lighting. No lights shall be installed on the tower, unless required to meet FAA regulations.

10. Signage. At least one weatherproof warning sign, no less than eight inches by 10 inches and no more than 12 inches by 20 inches in size shall be posted on the tower base or fenced enclosure to warn of hazards and to advise against trespassing. No other

signage, graphics, or advertising of any kind shall be permitted on the tower or any associated structures including blades, turbine, generator housing, or fence enclosure other than said warning sign.

11. Climbing Apparatus. The tower must be designed to prevent climbing within the first 10 feet.

12. Installation. Installation shall be done by a qualified professional installer certified by the manufacturer of a SWECS as qualified to install and maintain that manufacturer's SWECS according to the manufacturer's recommendations.

13. Maintenance. Facilities shall be well maintained in accordance with manufacturer's specifications and shall remain in an operational condition that poses no potential safety hazard nor is in violation of any provisions contained within this chapter or elsewhere within the City Code.

14. Displacement of Parking Prohibited. The location of the SWECS shall not result in the net loss of required parking as specified in Chapter 165 of this Code of Ordinances.

15. Utility Notification. The City shall notify the utility of receipt of an application to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this notification requirement.

16. Interconnection. If connected to the grid, the SWECS shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board. No permit of any kind shall be issued until the City has been provided with a copy of an executed interconnection agreement. Off-grid systems shall be exempt from this requirement.

17. Restriction on Use of Electricity Generated. A SWECS shall be used exclusively to supply electrical power to the owner for on-site consumption, except that excess electrical power generated by the SWECS and not presently needed for use by the owner may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the *Iowa Administrative Code*, as may be subsequently amended.

18. Noise. A SWECS shall be designed, installed and operated so that the noise generated does not exceed the 60 decibels "dB(A)" as measured at the property line of the site on which the system is located except during short-term high wind events such as utility outages and severe windstorms. The applicant shall submit a site-specific noise study or the manufacturer's engineered sound studies for review to verify that the noise level will comply with these regulations.

19. Shadow Flicker. No SWECS shall be installed and operated so to cause a shadow flicker to fall on or in the buildable area of any lot or parcel, other than the lot or parcel on which the SWECS is located. The applicant shall submit a written analysis prepared by a licensed engineer that defines the boundaries of where the shadow is cast during all seasons of the year on a site layout plan. Said analysis shall include the computer program results for review.

20. Safety Controls. Each SWECS shall be equipped with both an automatic and manual braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, or turbine components. Said automatic braking system shall also be capable of stopping turbine rotation in the event of a power outage so as to prevent back feeding of the grid or other utility approved back feed prevention control devices.

21. Shut Off. A clearly marked and easily accessible shut off for the wind turbine will be required as determined by the Building Official of the City.

22. Electromagnetic Interference. All SWECS shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SWECS is causing electromagnetic interference, the owner/operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the City. A permit granting a SWECS may be revoked if electromagnetic interference from the SWECS becomes evident.

23. Wind Access Easements. The enactment of this chapter does not constitute the granting of an easement by the City. The SWECS owner/operator shall have the sole responsibility to acquire any covenants, easements, or similar documentation to assure and/or protect access to sufficient wind as may or may not be necessary to operate the SWECS.

24. Insurance. The owner/operator of a SWECS must demonstrate and maintain liability insurance of not less than $1,000,000.00 coverage.

25. Engineer Certification. Applications for any freestanding or building mounted SWECS shall be accompanied by standard drawings of the wind turbine support structure, including the tower, base, and footings, or existing structure if applicable. An engineering analysis of all components of the SWECS showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted.

26. Installation. Installation must be done according to manufacturer's recommendations. All wiring and electrical work must be completed according to the applicable building and electric codes. All electrical components must meet code recognized test standards.

27. Removal. If the SWECS remains nonfunctional or inoperative for a continuous period of six months, the system shall be deemed to be abandoned. The SWECS owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, transmission equipment and fencing from the property excluding foundations. Non-function or lack of operation may be proven by reports from the interconnected utility. For off-grid systems the City shall have the right to enter the property at its sole discretion to determine if the off-grid system is generating power. Such generation may be proven by use of an amp meter. The SWECS owner/operator and successors shall make available to the City all reports to and from the purchaser of energy from the SWECS if requested. If removal of towers and appurtenant facilities is required, the City shall notify the SWECS owner/operator. Removal shall be completed within six months of written notice to remove being provided to the owner/operator by the City.

28. Right Of Entrance. As a condition of approval of a Conditional Use Permit an applicant seeking to install SWECS shall be required to sign a petition and waiver agreement which shall be recorded and run with the land granting permission to the City to enter the property to remove the SWECS pursuant to the terms of approval and to assure compliance with the other conditions set forth in the permit. Removal shall be at the expense of the owner/operator and the cost may be assessed against the property.

29. Feasibility Study. It is highly recommended that a feasibility study be made of any site prior to installing a wind turbine. The feasibility study should include measuring actual wind speeds at the proposed turbine site for at least three months.

30. Restrictive Covenants. Deeds for property located in subdivisions approved after the date of the ordinance codified in this chapter shall not contain restrictive covenants that include unreasonable restrictions on the use of SWECS.

159.04 BULK REGULATIONS.

1. Setbacks.

A. The minimum distance between any freestanding SWECS and any property line shall be a distance that is equivalent to 125 percent of the total system height. The setback shall be measured from the property line to the point of the SWECS closest to the property line.

B. The required setback for any building mounted SWECS shall be equal to the required setback of the principal building to which the SWECS is to be attached at such time that the application to install a building mounted SWECS is received by the City.

2. Maximum Height. Height shall be measured from the ground to the top of the tower, including the wind turbine generator and blades.

A. For lots of more than one and fewer than three acres, the maximum height shall be 65 feet.

B. For lots of three to seven acres, the maximum height shall be 80 feet.

C. For lots of more than seven acres, the maximum height shall be 100 feet.

D. Building mounted SWECS on single-family dwellings, two-family dwellings and townhomes may be a maximum of 10 feet higher than the point of attachment to the building on which they are attached.

E. Building mounted SWECS on multi-family, mixed use, commercial, or industrial buildings may be a maximum of 20 feet higher than the point of attachment to the building on which they are attached.

3. Minimum Lot Size.

A. The minimum lot size for a freestanding SWECS shall be one acre.

B. The minimum lot size for a building mounted SWECS shall be one acre for any building of less than five stories in height.

C. There shall be no minimum lot size for building mounted SWECS to be mounted on buildings of five or more stories in height.

4. Clearance of Blade. No portion of a horizontal axis SWECS blade shall extend within 30 feet of the ground. No portion of a vertical axis SWECS shall extend within 10 feet of the ground. No blades may extend over parking areas, driveways or sidewalks. No blade may extend within 20 feet of the nearest tree, structure or above ground utility facilities.

5. Location.

A. No part of a SWECS shall be located within or over drainage, utility or other established easements.

B. A freestanding SWECS shall be located entirely in the rear yard for all residential uses, including mixed use buildings comprising residential uses. A

freestanding SWECS for all other uses shall be situated in a location appropriate to the property and setting and shall be determined through the site plan review process.

C. A SWECS shall be located in compliance with the guidelines of applicable Federal Aviation Administration (FAA) regulations as amended from time to time.

D. No SWECS shall be constructed so that any part thereof can extend within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least 10 feet.

E. Building mounted SWECS shall be prohibited unless the owner has obtained a written analysis from an Iowa licensed structural engineer determining that the SWECS can be securely fastened so as to not pose a hazard caused by detaching from the structure.

159.05 SITE PLAN REQUIRED.

1. The applicant shall submit a site plan in general conformance to the procedures and requirements of Chapter 157 of this Code of Ordinances.

2. The site plan shall include:

A. Location of the SWECS on the site and total height of the system, including blades, rotor diameter, and ground clearance;

B. The area of the base of each tower and depths;

C. Utility lines, telephone lines, and any other lines, both above and below ground, within a radius of 200 feet from the tower base;

D. Details as to how the power will be delivered to the grid, including the route and size of poles and towers to be used;

E. Property lot lines, land uses, trees, and the location and dimensions of all existing structures and uses on and off site within a radius of 200 feet from the tower base;

F. All required setbacks for freestanding or building-mounted SWECS, whichever is applicable;

G. The shadow boundary line in accordance with the flicker shadow study, along with the location of any dwelling or structure located inside the boundary of the defined shadow or within 50 feet of the limits of the defined shadow;

H. Noise level analysis, based on a site-specific noise study by a licensed engineer or the manufacturer’s engineered sound studies;

I. The property lines for all parcels located within 250 feet of the edge of the property on which the SWECS will be located and the names of all property owners of said parcels;

J. A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the *National Electric Code*; and

K. Design data for the system indicating the basis of design, including manufacturer's dimensional drawings and installation and operation instructions.

3. Prior to considering a site plan for a SWECS, the Planning and Zoning Commission shall hold a public hearing. Notification of the public hearing shall be published as specified elsewhere in this Code of Ordinances. The City Clerk shall mail notification of the public hearing to all property owners of parcels located within 250 feet of the edge of the property on which the SWECS will be located. The applicant shall provide all necessary stamped and addressed envelopes to the City Clerk for such purpose.

4. Following public hearing, the Planning and Zoning Commission shall make their recommendation to Council for approval, approval with conditions, or denial of the Site Plan. The City Council shall then take action to approve or deny the Site Plan.

159.06 PERMIT REQUIRED.

1. Application for SWECS permit shall be made on forms provided by the City.

2. Fees for a SWECS permit shall be in accordance with a fee schedule adopted from time to time by resolution of the City Council.

3. No SWECS permit application shall be approved until the Site Plan has been approved by City Council.

4. No action may be taken regarding requests for SWECS, including the commencement of construction, until such time as the permit has been approved by the City Manager and all fees have been paid.

5. All SWECS permit applications shall be renewed on July 1 of each year. Every third year and prior to the City Manager's approval of said renewal, the applicant shall provide written certification from an Iowa licensed professional engineer stating that the SWECS is in compliance with all federal, State, and local codes, including all requirements of this chapter. The cost for the annual renewal of the permit will be stated in a resolution as from time to time adopted by the Council.

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CHAPTER 160

FLOODPLAIN REGULATIONS

160.01 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. "Appurtenant structure" means a structure which is on the same parcel of the property as the principal structure to be insured, and the use of which is incidental to the use of the principal structure.

2. "Base flood" means the flood having one percent chance of being equaled or exceeded in any given year (also commonly referred to as the "100-year flood").

3. "Base flood elevation" or "BFE" means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. "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."

5. "Big Creek/Wolf Creek Study: means the report titled "Hydraulic Report, Big Creek/Wolf Creek Floodplain Modeling & Mapping" dated October 25, 2018. The study included a detailed analysis of Big Creek and Wolf Creek within the City which includes base flood elevations and a delineation for both the floodway and floodway fringe.

6. "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.

7. "Enclosed area below lowest floor" means the floor of the lowest enclosed area in a building when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 160.05(4)(A) of this chapter; and

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 base flood elevation; and

D. The enclosed area is not a basement, as defined in this section.

8. "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 community.

9. "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 community.

10. "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).

11. "Factory-built home" means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

12. "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.

13. "500-year flood" means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.

14. "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.

15. "Flood insurance rate map" (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

16. "Flood insurance study" (FIS) means a report published by FEMA for a community, issued along with the community's Flood Insurance Rate Maps. The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

17. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

18. "Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

19. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

20. "Floodway" means the channel of a river or stream and those portions of the floodplains 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.

21. "Floodway fringe" means those portions of the Special Flood Hazard Area outside the floodway.

22. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

23. "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 either: (i) by 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.

24. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of "enclosed area below lowest floor" are met.

25. "Maximum damage potential uses" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency; or other buildings or building complexes similar in nature or use.

26. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than $500.00.

27. "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 floodplain management regulations adopted by the community.

28. "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 effective date of the first floodplain management regulations adopted by the community.

29. "Recreational vehicle" means a vehicle which is:

A. Built on a single chassis;

B. 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.

30. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition 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, counter tops 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.

31. "Special Flood Hazard Area" or "SFHA" means the land within the City subject to the base flood. This land is identified on the City's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

32. "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.

33. "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, grain storage facilities, and/or other similar uses.

34. "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. Volunteer labor and donated materials shall be included in the estimated cost of repair.

35. "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 a historic structure, provided the alteration will not preclude the structure's designation as a historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

36. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.

37. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 364 of the *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.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result 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 of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges, and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 160.02(2)(A) of this chapter with provisions designed to:

A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

B. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 GENERAL PROVISIONS.

1. Lands to Which Chapter Applies. The provisions of this chapter shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Polk County and Incorporated Areas, City of Polk City, Panels 19153C0030F, 0040F, 0045F, dated February 1, 2019, which were prepared as part of the Polk County Flood Insurance Study, and the Big Creek/Wolf Creek Study, dated October 25, 2018, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the base flood boundary, the location shall be determined on the basis of the base flood elevation at the particular site in question. The Flood Insurance Study for the County of Polk County is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations. This chapter shall additionally apply to all lands within the jurisdiction of the City that have not been mapped on a FIRM or a Flood Hazard Boundary Map and/or have been identified by the community as having the presence of flood-prone areas.

2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard Areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Manager shall make the necessary interpretation. In the event of a conflict between the Flood Insurance Rate Map dated February 1, 2019, and the Big Creek/Wolf Creek Study dated October 25, 2018, the more stringent map shall be used. The Planning and Zoning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City in the enforcement or administration of this chapter.

3. Compliance. No structure or land shall hereafter be used, and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

4. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Special Flood Hazard Areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

7. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.04 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Floodplain Administrator.

A. The City Manager is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of: (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures; or (ii) the elevation to which all new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter, and advise the Board of Appeals of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;

a. Development placed within the Floodway (Overlay) District results in any of the following:

(i) An increase in the base flood elevations, or

(ii) Alteration to the floodway boundary

b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or

c. Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

(11) Forward all requests for variances to the Planning and Zoning Commission for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Planning and Zoning Commission.

2. Floodplain Development Permit.

A. Permit Required. A floodplain development permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all structures and additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons, therefore. The Administrator shall not issue permits for variances except as directed by the Planning and Zoning Commission.

D. Construction and Use to be as Provided in Application and Plans. Floodplain development permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 FLOODPLAIN MANAGEMENT STANDARDS. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the base flood elevation. Until a regulatory floodway is designated, no development may increase the base flood elevation more than one foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where: (i) the bridge or culvert is located on a stream that drains less than two square miles; and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567 IAC 71.2(2).

1. All Development. All development within the special flood hazard areas shall:

A. Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.

B. Use construction methods and practices that will minimize flood damage.

C. Use construction materials and utility equipment that are resistant to flood damage.

D. Obtain all other necessary permits from federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), *Iowa Administrative Code*.

3. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures shall be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or, in the case of non-residential structures, optionally floodproofed to) a minimum of one foot above the base flood elevation.

D. New and substantially improved structures shall be constructed with plumbing, gas lines, water meters, gas meters, and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.

5. Factory-Built Homes.

A. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.

B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall 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. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the *State Building Code*.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other

than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of Materials and Equipment. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and be anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.

8. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures to Residential Uses. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

A. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.

B. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

D. The structure shall be firmly anchored to resist flotation, collapse, and lateral movement.

E. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

F. The structure's walls shall include openings that satisfy the provisions of Subsection 4(A) of this section.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator. Where 0.2 percent chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

15. Special Floodway Provisions. In addition to the General Floodplain Standards, development within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental

encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. No development shall be permitted in the floodway that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

B. All development within the floodway shall:

(1) Be consistent with the need to minimize flood damage.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable General Floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal, or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.

G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.06 VARIANCE PROCEDURES.

1. The Planning and Zoning Commission may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of

this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors upon Which the Decision of the Planning and Zoning Commission Shall Be Based. In passing upon applications for variances, the Planning and Zoning Commission shall consider all relevant factors specified in other sections of this chapter and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the City.

F. The requirements of the facility for a floodplain location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access to the property in times of flood for ordinary and emergency vehicles.

K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.

M. Such other factors which are relevant to the purpose of this chapter.

3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Planning and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

A. Modification of waste disposal and water supply facilities.

B. Limitation of periods of use and operation.

C. Imposition of operational controls, sureties, and deed restrictions.

D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

160.07 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building, or safety codes or regulations or the cost of any

alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in Section 160.07(1)(B), any use which has been permitted as a variance shall be considered a conforming use.

160.08 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements 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 $750.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

160.09 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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CHAPTER 161

GRADING AND EROSION CONTROL

161.01 PURPOSE. Soil erosion contributes to the impairment of drainage ways; increases maintenance costs for streets, storm sewers, and open ditches; contributes to the destruction and obstruction to traveled roadways creating a potential hazard for vehicular traffic, and contributes to contamination and degradation of land surfaces and streams, flooding and dusty conditions. This chapter establishes requirements for grading, filling, fill material, and for obtaining grading permits in an effort to control erosion and sediment transport and to prevent pollution. These standards include the use of suitable fill material, stable slope construction, proper site drainage, pollution prevention, and usability of public and private easements.

161.02 APPLICABILITY.

1. No person or entity shall engage in land-disturbing or tree clearing activities that require a grading permit as defined in this chapter unless they have received a grading permit.

2. Exceptions. A grading permit is not required for work that is specifically covered by a building permit for a one- or two-family residential dwellings; such work includes but is not limited to excavation for footings, basements, septic tanks, drain fields, and swimming pools. However, site filling, grading, and associated work done pursuant to these approved permits and plans shall meet the requirements of this chapter. The applicant on the building permit shall be responsible for installing, inspecting and maintaining erosion control devices as required to contain silt on the property for which the building permit is issued; this requirement shall not be interpreted as alleviating the permittee or co-permittees of the NPDES General Permit No. 2 from their obligations under said permit.

161.03 ADDITIONAL STANDARDS.

1. Iowa Department of Natural Resources ("Iowa DNR") authorization for coverage under National Pollutant Discharge Elimination System General Permit No. 2 is required prior to construction activity that disturbs one or more aces or which is part of a larger project that disturbs one or more acres in total. The property owner and/or permittee shall be solely responsible for complying with all requirements and obligations under said permit, including but not limited to publishing the Notice of Intent, performing required site inspections, providing ongoing maintenance of erosion control devices, and filing a Notice of Discontinuation upon final stabilization of the site.

2. The City's tree ordinance requires City Council approval of a landscaping plan in conjunction with site plans, site plan amendments, and preliminary plats that designates the trees that are to be removed and provides for the protection of trees that

are to be saved. Applications for grading permits shall be in compliance with the City's tree ordinance and approved landscaping plan.

3. Filling or construction within floodplain limits as established by the Federal Emergency Management Agency and including areas regulated by the City's Floodplain Management Ordinance (Chapter 160 of this Code of Ordinances) will require a separate floodplain development permit in addition to the permits required by this chapter.

4. Grading and drainage shall be designed and performed in accordance with Iowa drainage law that includes, but is not limited to, an allowance for land owners to drain their property in the general course of natural drainage, obligates lower lands to receive all natural drainage, and prohibits the obstruction of natural flow to the detriment of upstream properties.

5. No fill shall be placed in a channel or in the floodplain; and no channel shall be re-aligned; of any river or stream draining two square miles or more without the approval of the Iowa Department of Natural Resources.

161.04 DEFINITIONS.

1. "City" means the City of Polk City, Iowa.

2. "Development site" means any parcel of land that is used, or intended to be used, for any industrial, civic, commercial, or residential use purpose, with the exception of an individual one- or two-family residence, which requires a site plan or site plan amendment prior to development; or any parcel of land that is being subdivided, or intended to be subdivided, for development purposes.

3. "General Permit No 2" means National Pollutant Discharge Elimination System General Permit No. 2, Stormwater Discharge Associated With Industrial Activity for Construction Activities.

4. "Iowa DNR" means the Department of Natural Resources of the State of Iowa.

5. "NPDES" means the National Pollutant Discharge Elimination System permit program, as delegated to Iowa DNR.

6. "Public Works Director" means the Public Works Director of the City or designee that may include the City Engineer, Building Inspector, or other personnel as deemed appropriate by the Public Works Director.

7. "Tree Ordinance" means Chapter 151 of this Code of Ordinances.

161.05 GRADING PERMIT REQUIRED.

1. Before any land within the corporate limits of the City is graded for purposes including, but not limited to, the construction of buildings, the mining of minerals such as sand and gravel, the construction of parks and golf courses, the construction of subdivisions for any use, the construction of buildings or structures for any use, the property owner shall obtain a grading permit from the Public Works Director or designee prior to initiating grading operations where the land-disturbing activity falls under any one or more of the following provisions:

A. Excavation, fill, or any combination thereof which exceeds 100 cubic yards in volume;

B. Fill that exceeds three feet in vertical depth at its deepest point measured from the natural ground surface;

C. Excavation that exceeds four feet in vertical depth at its deepest point;

D. Grading which creates a disturbed surface area of more than 20,000 square feet;

E. Grading which creates a disturbed surface area of 5,000 square feet or more located within 100 feet of a lake, pond, detention basin, river, street, or natural drainage way.

2. Before any trees are removed to clear the land for the purpose developing a subdivision for any use or a site for multiple-family, commercial, civil, or industrial use, the property owner shall obtain a grading permit prior to commencing any tree removal activities.

3. Permits shall be issued by the Public Works Director or designee and, when deemed appropriate by the Public Works Director, shall be approved by the City Engineer.

4. A grading permit application shall include the following:

A. A completed application for grading permit on a form provided by the City. The application shall be signed by the title holder of the site, together with the applicant if different from the title holder.

B. A site sketch showing property boundaries, easements, existing and proposed utilities and drains within 300 feet of the site, existing and proposed buildings within 300 feet of the site, existing trees to be removed, existing trees to be protected, and construction fence or similar delineation to be installed for tree protection. Show all areas to be seeded, along with seed mixture; sodded, mulched, paved, or left undisturbed after the work. Areas not intended to be mown will be designated as such and seeded with an appropriate seed mixture as approved by the City for such installation. The sketch must include a legend and scale.

C. Information on areas abutting or adjacent to the site sufficient to show existing drainage patterns and drainage courses that may be affected by the proposed grading operations.

D. A soil map of the property showing the predominant soil types on the site.

E. A geotechnical report demonstrating the suitability of soils for their intended purpose, unless waived by the City Engineer.

F. A Grading Plan showing existing topography including a 200 feet peripheral strip around the site, proposed topography, and floodplain limits if any. The scale of the plan shall be no greater than one inch = 50 feet and contours shall have an interval of no more than two feet. The plan must show how all stormwater drainage will be handled on or near the site and indicate a temporary and permanent measures will be employed to protect cut and fill slopes from erosion. The plan shall include an estimated schedule and phase of the grading work.

(1) The Grading Plan shall be prepared and certified by a professional engineer licensed in the State of Iowa. For projects of

small scope not requiring an NPDES permit, the Public Works Director may waive the requirement for certification by a professional engineer.

(2) When the proposed grading is a proposed or future development site, the Grading Plan shall be in conformance with the Site Plan or Construction Drawings for Public Improvements as approved by City Council. If the construction drawings have not been approved, the Grading Plan shall be in conformance to the approved Preliminary Plat and must be reviewed and approved by the City Engineer prior to issuance of a grading permit.

G. For all sites with a disturbed area greater than or equal to one acre, the grading permit application shall be accompanied by a Stormwater Pollution Prevention Plan (SWPPP) meeting the requirements of the NPDES General Permit No. 2 and certified by a design professional.

H. Payment in full of the permit fee to the City Clerk.

5. Prior to issuance of a grading permit or building permit, the following conditions shall be met:

A. Silt fence or similar erosion control devices around the perimeter of the property, along the proposed grading limits, at natural drainage ways, in conformance with the SWPPP and designed to limit off-site migration of sediment, shall be in place and approved by the Public Works Director or designee. This requirement shall not be interpreted to require prior installation of erosion control devices that will be disturbed by grading activities.

B. Fencing, or other delineation as may be approved by the Public Works Director, around the driplines of existing trees or stands of trees that are designated to be protected on the approved Preliminary Plat, Construction Drawings, or Site Plan as required by Section 151.10(3) of the tree ordinance shall be in place and verified by the Public Works Director or designee.

C. In the case of grading for the development of subdivisions, prior approval of the Preliminary Plat by City Council is required. Prior approval of the Construction Drawings is recommended, but not required, provided that any grading initiated prior to approval of said Construction Drawings shall be at the applicant's own risk.

6. Grading permits shall be valid for a period of one year from the date of issuance and must be renewed by resubmitting the applicable information and fee.

161.06 EXEMPTIONS. A grading permit shall not be required in the following cases:

1. Crop production activities including field tiling and subdrain installation.

2. Cemetery graves.

3. Exploratory excavations for soil testing purposes conducted under the direction of a registered professional.

4. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.

5. Public improvements being constructed by the City, County, State, or federal government.

161.07 GRADING STANDARDS.

1. General.

A. The regulations, including grading standards, of this chapter shall apply to all sites, whether or not a grading permit is required.

B. Property shall be graded so that it drains to an approved piping or drainage system or street as approved by the City, unless otherwise approved by the City Engineer, and shall generally conform with existing drainage basins and drainage areas wherever possible.

C. To the maximum feasible extent, all natural drainage courses serving major drainage areas and containing significant vegetation which may constitute a significant wildlife habitat, as determined by the City, should remain in their natural state. Alterations to the above drainage courses may be allowed if the application of this section will mitigate upstream or downstream flooding, erosion, or drainage issues.

D. No excavation or grading shall be done on property which causes the removal of earth from the property which limits the development of the property in a manner that conforms with the City's Comprehensive Plan.

E. Grading plans shall, to the greatest extent possible, maintain the natural gradient and contours of the site and include measures to preserve natural features including, but not limited to, trees, natural swales, and rock outcrops.

F. Manufactured slopes shall be rounded and shaped to simulate the natural terrain. Manufactured slopes shall be four horizontal to one vertical (4:1) for mown areas wherever possible. In no case shall manufactured slopes exceed three horizontal to one vertical (3:1).

G. Finish grading shall be according to approved plan.

H. Temporary erosion control measures, in conformance with the SWPPP and as acceptable by the City, shall be installed prior to any vegetation disturbance with approved permanent erosion control measures to be installed as soon as practicable thereafter. Temporary and permanent erosion control measures shall be maintained at all times.

I. The titleholder of the property shall be responsible for removal of temporary erosion control measures following final stabilization of the site.

J. All grading operations, ponds, impoundments, backwater, and embankments shall be located on the property for which the grading permit applies. Permanent off-site improvements or encroachments shall be covered by an easement that has been signed by the appropriate property owners and recorded, a copy of which shall accompany the grading permit application. Temporary grading operation shall be covered by a written easement or agreement which shall accompany the grading permit application.

K. Excavated dirt shall be incorporated into the site or removed from the premises to an acceptable location. If such location in the City, its location must be approved by the City with the grading permit.

L. Temporary stockpiles shall not be permitted unless part of a phased subdivision development project. In certain unique circumstances, a temporary

stockpile may be approved as part of a site plan if a date for its removal is defined on said site plan.

2. Topsoil.

A. During grading operations, existing topsoil shall be stripped and stockpiled on site. No topsoil shall be removed from the property without prior approval of the Public Works Director.

B. A minimum of four inches of topsoil shall be spread across all areas on site that are designated for seeding or sod unless the geotechnical report clearly demonstrates there is insufficient existing topsoil on site; in which case the developer shall develop a mitigation plan for review by the City Engineer and approval by Public Works Director prior to issuance of the grading permit.

3. Clearing and Grubbing.

A. Trees and shrubs within the site to be graded shall be saved whenever feasible as determined by the City, in conformance with the tree ordinance.

B. Clearing and grubbing shall be performed according to the Iowa Statewide Urban Design and Specifications (SUDAS) and the tree ordinance.

C. Trees may not be buried. Trees may not be burned for development sites. On individual lots only, where unique circumstances exist, an application for a burning permit must be submitted for approval by the Fire Chief. If a burning permit should be approved, trees may only be burned on their site of origination.

4. Filling Requirements.

A. No filling will be allowed on lands which lie ether wholly or in part within the floodplain of a river, stream, creek, or lake unless such fill is approved under the terms of a permit granted by the applicable federal, State or local agency.

B. Fill material shall be placed according to the Stormwater Pollution Prevention Plant (SWPPP), SUDAS, and the approved grading plan.

C. Interim filling during construction shall be placed in a safe manner. Slope stabilization, inspection and maintenance of erosion control, and soil stabilization where work has been suspended shall be according to SUDAS.

D. Unacceptable Fill Materials. Fill materials shall not include hazardous waste, synthetic material, metal, and organic material other than natural topsoil incidental to excavation except as noted below.

(1) Concrete, brick, tile, and other manufactured inert material shall not be greater than 18 inches in its greatest dimension; provided they are not placed below the known water table.

5. Concrete Waste Management for any concrete activity.

A. Washout facilities waste must be contained in washout areas. The washout areas shall contain the concrete and liquids when the chutes of concrete mixers and hoppers of concrete pumps are rinsed out after delivery.

B. Saw-cut slurry must be vacuumed or shoveled and removed from the site or disposed of in a concrete washout area.

C. Washout areas consolidate solids for easier disposal. These washout areas must be removed and/or cleaned, and dry waste concrete must be disposed of properly.

6. Sump Pump Discharge.

A. In order to minimize erosion and avoid drainage issues, all sump pumps and subsoil drains shall be connected to the City's storm sewer system whenever possible, as determined by the Public Works Director. Where reasonable access to the City's storm sewer system is not available, the following shall be permitted:

(1) Lots containing or abutting an existing drainage channel, may discharge their sump pump and/or subsoil drain into the existing drainage channel provided the point of discharge is not less than 10 feet from the nearest property line in a location approved by the Public Works Director or designee.

(2) Lots not containing or abutting an existing drainage shall be required to discharge their sump pump and/or subsoil drain into a French drain-style discharge pit. Such pits shall include the following elements unless otherwise approved by the Building Inspector:

d. A pit that measuring five feet long by five feet wide by five feet deep, filled with pea gravel or other clean rock; and

e. A sump pump discharge line, approximately one and one-half inches to two inches in diameter, running into the pit with a 90-degree elbow to bring the line to the surface of the rock where it is capped with a rodent cover; and

f. A weep hole in the discharge line near the 90-degree elbow to allow the pipe to drain to prevent freezing.

B. Sump pumps and/or subsoil drains shall not be permitted to discharge to the street curb or gutter, or to an alley, unless previously approved in writing by the Public Works Director.

161.08 INSPECTION, NOTICE TO COMPLY, AND NOTICE OF VIOLATION.

1. Inspections. The City reserves the right to inspect the site in response to reports from third parties or at other times, at the City's discretion.

A. Right of Entry. The Public Works Director or designee shall be permitted to enter the premises covered by the grading permit for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The applicant, owner, or titleholder shall be deemed to have consented to such entry by submission of an application for any permit or plan identified in this chapter. Barring or delaying such inspection is a violation of this chapter.

B. The Public Works Director or designee shall have access to and be able to copy any records that must be kept under the conditions of NPDES General Permit No. 2 within three business hours, where a business hour is any hour between 7:00 a.m. and 5:00 p.m. on a non-holiday weekday.

2. Notice to Comply. The City may issue a notice to comply with the responsible party or parties, describing any problems and specifying a date and time by which compliance must be achieved. Failure to achieve compliance by the specified date and time is a violation of this chapter.

3. Notice of Violation. The Public Works Director shall, upon determination of any violation of this chapter, issue a Notice of Violation in writing to the responsible parties indicating the nature of the violation and ordering the action necessary to correct it.

A. The Notice of Violation may:

(1) Order the discontinuance of any illegal work, specifying a date and time for such discontinuance; and

(2) Require the repair and cleanup of any damage done due to failure to comply with General Permit No. 2 or the provisions of this chapter, specifying a date and time for completion of repair and cleanup; and

(3) Order the withholding of any building or occupancy permits for the site; and

(4) Order the discontinuance of any and all work at the site, including at the Public Works Director's discretion work not directly related to the cause and prevention of erosion and sedimentation, except work necessary to achieve compliance and to repair and clean up damage, specifying a date and time for such discontinuance to commence and conditions for such discontinuance to cease.

B. Failure to comply with any order in a Notice of Violation is an additional violation. Each day of such failure constitutes a separation violation.

C. The Public Works Director may modify a Notice of Violation and may authorize, in writing, and extension to the specified dates and times therein.

D. The Notice of Violation, when deemed necessary or appropriate to the Public Works Director, be referred to the City Attorney for proper action or proceedings in the name of the City to prevent such unlawful construction or use, to restrain, correct or abate such violations, to prevent the occupancy of the premises or site, or to prevent any illegal act, conduct, business, or use in or about said premises or site.

E. Communication to a responsible party's employee, partner, attorney, agent, contractor, or subcontractor shall be regarded as communication to the responsible party for the purposes of this section. Communication to one responsible party shall be regarded as communication to each responsible

161.09 REPAIR AND CLEAN UP OF DAMAGE.

1. For any site, whether or not covered by a grading permit, building permit, or NPDES General Permit No. 2; the City may clean up eroded sediment or tracked soil deposited on public property, including streets, if:

A. Corrective action as identified in the Notice of Violation has not been completed by the specified date and time.

B. In the judgement of the Public Works Director, damage to the environment is ongoing and prompt corrective action would be intended to reduce such damage.

2. If the City cleans up such material deposited offsite, the Public Works Department will invoice the responsible party or parties for the City's actual costs including overhead, which may be recorded as an assessment against the property and constitute a lien thereon.

3. Failure to pay an invoice under this chapter within 30 days shall constitute a violation of this chapter.

161.10 ENFORCEMENT.

1. The City shall revoke the grading permit or decline renewal if unacceptable materials are being deposited at the site, if topsoil is being unlawfully removed from this site, or if the permittee has failed to comply with any of the regulations set forth in this chapter, or any requirement of law, statute or regulation.

2. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief.

3. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and cost from a person who is determined by a court of competent jurisdiction to have violated this chapter.

161.11 FEES.

1. Fees for grading permits and grading permit renewals shall be established from time to time by resolution of City Council. The applicant shall also be responsible for reimbursing the City for the City Engineers' review fees for review of the Grading Plan and associated documentation.

2. An application for a grading permit shall not be considered for approval unless the appropriate fee has been submitted with all appropriate documentation.

3. Fees for subdivisions shall be exempt if the grading permit is applied for concurrently or after the construction drawings for public improvements are approved by City Council.

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CHAPTER 162

SOLAR ENERGY SYSTEMS

162.01 PURPOSE. The purpose of this chapter is to allow safe, effective, and efficient use of solar energy conversion systems, and to identify the locations within the City where they may not be installed.

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

1. "Building integrated" means an integral part of a principal or accessory building. Building-integrated systems include but are not limited to photovoltaic or hot water systems that are contained within roofing materials, windows, skylights, and awnings.

2. "Roof-mount" means a solar energy system mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems can be either accessory or principal uses.

   A. "Parallel roof-mount" means a roof-mount solar energy system in which the solar panels are installed parallel to the roof underneath and no more than 12" from the surface of the roof. A parallel roof-mount system must not extend beyond the roof surface underneath it.

3. "Solar access" means unobstructed access to direct sunlight on a lot or building through the entire year including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

4. "Solar energy system" means a device, array of devices, or structural design feature, the purpose of which is to provide for generation of electricity, the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating installation types are.

5. "Solar farm" means a commercial facility that converts sunlight into electricity by means of photovoltaics (PV) for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

6. "Solar garden" means a commercial solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing or located off-site from the location of the solar energy system. A community solar system/solar garden is a principal use.

7. "Solar resource" means a view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 a.m. and 3:00 p.m. standard time on all days of the year.

8. "Wall-mount" means a solar energy system mounted on the side of a principal or accessory building, usually but not always for the purpose of providing direct supplemental space heating by heating and recirculating conditioned building air.

162.03 PERMITTED ACCESSORY USE. Solar energy systems shall be allowed as an accessory use in all zoning classifications where structures of any sort are allowed, subject to certain requirements as set forth below:

1. Height. Solar energy systems must meet the following height requirements:

A. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar energy systems other than building-integrated systems, shall be given an equivalent exception to height standards as building-mounted mechanical devices or equipment (See Section 165.06).

2. Set-Back. Solar energy systems must meet the accessory structure setback requirements for the zoning district and primary land use associated with the lot on which the system is located.

A. Roof or Building-Mount Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and set-back standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a back or side yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings.

3. Location and Visibility.

A. Building-Integrated and Wall-Mount Solar Energy Systems. Building-integrated and wall-mount solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building components in which the system is integrated or mounted meets all required set-back, land use, and performance standards for the district in which the building is located. The color of the solar collectors is not required to be consistent with other building materials.

B. Roof-Mount Solar Energy Systems. Roof-mount solar energy systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public right-of-way other than an alley. Roof-mounted systems that are visible from the nearest edge of the street frontage right-of-way shall not have the highest finished pitch steeper than the roof pitch on which the system is mounted, and shall be no higher than 12 inches above the roof. The color of the solar collectors is not required to be consistent with other roofing materials.

C. Reflectors. No solar energy system using an external reflector to enhance solar production shall be installed within the City limits of the City of Polk City.

4. Historic Buildings. Solar energy systems on historically designated buildings shall be installed only as allowed by the U.S. Department of Interior.

5. Plan Approvals. All proposed solar energy systems shall require a building permit as described in Chapter 156 of this Code.

6. Approved Solar Components. Electric solar energy system components must have a UL or equivalent listing and solar hot water systems must have an SRCC rating.

7. Compliance with Building Code. All solar energy systems shall be consistent with the City's building code, and the solar thermal systems shall comply with HVAC-related requirements of the Energy Code.

8. Compliance with State Electric Code. All photovoltaic systems shall comply with the Iowa State Electric Code.

9. Compliance with State Plumbing Code. Solar hot water systems shall comply with applicable Iowa State Plumbing Code requirements.

10. Utility Notification. All solar energy systems that connect with an electric circuit serviced by the local electric utility (grid-tied systems) shall comply with the interconnection requirements of the electric utility. Systems not so connected (off-grid systems) are exempt from this requirement.

162.04 PRINCIPAL USES.

1. Solar Garden. The City of Polk City permits the development of community solar gardens, subject to the following standards and requirements:

A. Rooftop Solar Gardens. Subject to the requirements of Section 162.03, rooftop solar gardens are permitted in all districts where buildings are permitted.

B. Interconnection. An interconnection agreement must be in place with the local electric utility before work commences on installation of a solar garden.

C. Dimensional Standards. All structures must comply with set-back, height, and coverage limitations for the district in which the system is located.

D. Site Security. A ground mount solar garden located wholly or partly within the City limits of the City of Polk City must be completely surrounded by a privacy fence at least six feet high. All gates must be locked at all times unless personnel are on site. All components must be located at least four feet from the fence.

E. Other Standards. Ground-mount systems must comply with all required standards for structures in the district in with the system is located.

F. Ground Cover. The City of Polk City encourages (but does not require) owners of ground-mount solar gardens to plant the land underneath the solar collectors in pollinator friendly wildflowers. Such plantings must be maintained in such a way that they do not go to weeds or become predominantly grass but afford passers-by a predominantly flower view during blooming season. Such plantings shall be considered flower beds and shall be exempt from the mowing requirements of Chapter 152. If wildflowers are not planted, the land underneath the collectors must be neatly maintained in compliance with Chapter 52 of this Code of Ordinances.

G. Building Permit. Development of a solar garden inside the City limits requires the issuance of a building permit, according to the process detailed in Chapter 156.

H. Decommissioning. The City of Polk City requires that, as part of the construction permit application, a decommissioning plan shall be submitted to ensure that the facilities are properly removed after their useful life. Decommissioning of the solar garden must occur in the event it (or a majority part of it) is not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of the soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site. Disposal of the solar panels, racks, and foundations must meet State requirements applicable at the time of decommissioning. The City may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

2. Solar Farm. The City permits the development of solar farms, subject to the following standards and requirements:

A. Development. A solar farm may be developed only on land zoned A-1 (Agricultural) at the time of the development.

B. Stormwater and NPDES. The City has stormwater management, erosion and sediment control, and NPDES permit requirements and solar farms are required to provide a Storm Water Management Plan per SUDAS.

C. Ground Cover and Buffer Areas. Ground around and under solar arrays and in project buffer areas shall be planted and maintained in perennial vegetated ground cover, and meet the following standards:

(1) Top soils shall not be removed during development, unless part of a remediation effort.

D. Soils shall be planted and maintained in perennial vegetation to prevent erosion, manage run off, and build soil. Seeds may include a mix of grasses and wildflowers, but shall be predominantly wildflowers, ideally native to the region that will result in a short stature prairie with a diversity of forbs of flowering plants that bloom throughout the growing season. Blooming shrubs may be used in buffer areas as appropriate for visual screening. Seed mixes and maintenance practices should be consistent with recommendations made by qualified natural resource professionals such as those from the Iowa Department of Natural Resources, Polk County Soil and Water Conservation Service, or the Natural Resource Conservation Service. Plant material must not have been treated with systemic insecticides, particularly neonicontinoids. Such plantings must be maintained in such a way that they do not go to weeds or become predominantly grass but afford passers-by a predominantly flower view during blooming season. Such plantings shall be considered flower beds and shall be exempt from the mowing requirements of Chapter 152. If wildflowers are not planted, the land underneath the collectors must be neatly maintained in compliance with Chapter 152 of this Code.

E. Foundations. A qualified engineer shall certify that the foundation and design of the solar panels' racking and support is within accepted professional standards, given local soil and climate conditions.

F. Other Standards and Codes. All solar farms shall be in compliance with all applicable local, State and federal regulatory codes, including the *State of Iowa Uniform Building Code*, as amended; and the *National Electric Code*, as amended.

G. Power and Communication Lines. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the City in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the City.

H. Site Security. A solar farm located wholly or partly within the limits of the City must be completely surrounded by a chain link fence at least six feet high. All gates musts be locked at all times unless personnel are on site. All components must be located at least four feet from the fence.

I. Site Plan Required. A detailed site plan in conformance with Chapter 157 for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the City. The site plan shall also show all zoning districts.

J. Aviation Protection. For solar farms located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the airport traffic control tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

K. Agricultural Protection. Solar farms must comply with site assessment or soil identification standards that are intended to protect agricultural soils.

L. Decommissioning. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of the installation must occur in the event that a majority of the solar panels are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of the solar panels, racks, and foundations must meet State requirements applicable at the time of decommissioning. The City shall require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

162.05 RESTRICTIONS ON SOLAR ENERGY SYSTEMS LIMITED. As of the effective date of this ordinance, new homeowners' agreements, covenants, common interest community standards, or other contracts between multiple property owners located within the City shall not restrict or limit solar energy systems to a greater extent that the City's energy standards.

162.06 SOLAR ACCESS. The City encourages protection of solar access in all new subdivisions and allows for solar resources to be protected consistent with Iowa statues.

1. Solar Easements Allowed. The City allows solar easements to be filed, consistent with Iowa State Code 564A.7. Any property owner can purchase an easement across neighboring properties to protect access to sunlight. The easement can apply to building, trees, or other structures that would diminish solar access. In situations where the easements are not voluntarily agreed to, the District Court, acting as the solar access regulatory board, may determine whether or not granting an easement is appropriate, consistent with Iowa Statutes 564A.3.

[The next page is 1211]

CHAPTER 165

ZONING REGULATIONS

165.01 TITLE. This chapter establishes comprehensive zoning regulations for the City and provides for the administration, enforcement and amendment thereof. This chapter shall be known and may be cited and referred to as the "Zoning Code" of the City.

165.02 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control.

165.03 DEFINITIONS. For the purpose of this chapter, the following terms or words are defined. The words "used or occupied" include the words intended, designed, or arranged to be used or occupied. The word "lot" includes the words plot or parcel.

1. "Accessory use or structure" means a use or structure on the same lot with and of a nature subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to use of the principal building.

2. "Adult entertainment business" means and includes any of the following:

A. "Adult amusement or entertainment" means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to "sex act" or "specified anatomical areas," as defined herein, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment.

B. "Adult bookstore" means an establishment having as a significant portion of its stock in trade books, films, magazines, and other periodicals or goods and items held for sale which are distinguished or characterized by an emphasis on matter depicting or describing "sex act" or "specified anatomical areas."

C. "Adult hotel or motel" means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein material is presented which is distinguished or characterized by an

emphasis on depicting or describing "sex act" or "specified anatomical areas" for observation by the individuals therein.

D. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing "sex act" or "specified anatomical areas."

E. "Adult motion picture theater" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing "sex act" or "specified anatomical areas."

F. "Adult photo studio" mans an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas" or "sex acts" as defined herein.

G. "Massage parlor" means any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on "sex act" or "specified anatomical areas" by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician's direction, physical therapist, registered speech pathologist and physical or occupational therapist who treat only patients recommended by a licensed physician and operate only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices. The term does not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

H. "Sexual encounter center" means any business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons may congregate, assemble or associate for the purpose of engaging in "sex act" or exposing "specified anatomical areas."

I. "Sex act," as used in the definition of "adult entertainment business," means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another, or by use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

J. "Specified anatomical areas" means and includes the following: human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola.

3. "Alley" means a public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.

4. "Apartment" means a room or suite of room in a multiple dwelling intended or designed for use as a residency by a single family.

5. "Attic" means a space under a gable, hip, gambrel, or other roof, the finished floor of which is, or would be, at or entirely above the level of the wall plates of at least

two exterior walls, and the height of which, from the floor level to the highest point of the roof, does not exceed 10 feet.

6. "Basement" means a story having part but no more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulation. When a story has more than one-half of its height below grade, the story constitutes a cellar and shall not be counted as a story for the purpose of height regulation.

7. "Bed and Breakfast" or "B & B" means a facility providing temporary lodging other than a hotel, motel or boarding house and which are classified as follows:

A. Residential B & B which is owner occupied and has less than three rental units.

B. B & B Inn which may be owner occupied and has up to and including 12 rental units.

C. B & B Hotel which may be owner occupied and has more than 12 rental units.

8. "Block" means that property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets, or lying within the nearest intercepting or intersecting streets and unsubdivided acreage, railroad right-of-way or water.

9. "Board" means the Board of Adjustment.

10. "Boarding house" or "Rooming house" means a building other than a hotel where, for compensation, meals and lodging are provided for up to two persons and only as an accessory use to the principal single-family residence and no more than 50 percent transient occupancy.

11. "Building" means any structure having a roof supported by walls or by columns designed or intended for enclosure, shelter or housing of persons, animals or property. When any portion thereof is separated by party walls without window, door or other openings, each portion so separated shall be deemed a separate building.

12. "Building frontage" means that wall or side of a building which is adjacent and most nearly parallel to a street.

13. "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.

14.

15. "Building line" means the line of the outside wall of the building or any enclosed projection thereof nearest the street.

16. "Bulk stations" means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than 12,000 gallons.

17. "Carport" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purposes of this chapter, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

18. "Cellar" means that portion of a building having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

19. "Center" or "complex" means a building or group of buildings which are designed to use common facilities such as parking or sidewalk.

20. "Channel" means a natural or artificial watercourse of perceptible extent, with a definite bed and definite banks to confine and to conduct continuously or periodically blowing water.

21. "Clinic, medical or dental" means a building or buildings in which physicians, dentists, or physicians and dentists, and allied professional assistants are associated for the purpose of carrying on their profession.

22. "Convenience store" means an establishment for retail sale of petroleum products and other supplies for motor vehicles, as well as for the retail sale of a variety of other items typically sold in grocery stores.

23. "Court" means an open, unobstructed and unoccupied space other than a yard, which is bounded on two or more sides by a building on the same lot.

24. "Day nursery" or "nursery school" means any private agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight, for six or more unrelated children of preschool age, for compensation.

25. "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.

26. "Duplex" means a residential two-family dwelling with a common wall.

27. "Dwelling" means any stationary, permanent building or portion thereof which is designed or used exclusively for residential purposes, but not including a cabin or camping trailer.

28. "Dwelling, single-family, detached" means a residence designed for or occupied by one family only, entirely surrounded by yard on the same lot.

29. "Dwelling, single-family, bi-attached" or "semi-detached" means a dwelling designed for or occupied by one family only, which is erected on a separate lot and is joined to another such residence on one side only by wall located on the lot line and which has yards on the remaining sides.

30. "Dwelling, duplex" or "two-family" means a residence designed for or converted for occupancy by two families only, with separate housekeeping and cooking facilities for each dwelling.

31. "Dwelling, multiple" means a residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

32. "Dwelling, condominium" means a multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others and where the general common elements of the structure, as defined under the *Code of Iowa*, is shared by one or more persons, corporations or other legal entities capable of holding or owning an interest in real property.

33. "Dwelling, row" means any one of three or more residences designed for or occupied only by one family within a townhome development which are attached and in a continuous row. Each dwelling is designed and erected as a unit on a separate lot with an individual entrance. All dwelling units must be separated horizontally from each other dwelling by a dividing wall, but may not be separated vertically from each other by a dividing floor or ceiling. No more than six units shall be permitted in a single structure.

34. "Dwelling, garden home" means a building containing only one dwelling unit on a separate lot and designed for and occupied exclusively for residence purposes by only one family within a townhome development.

35. "Dwelling, townhome" means a row dwelling or garden home as defined herein which is characterized by common elements which are specified in or determined under the rules and regulations set forth by recorded covenants. Said covenants shall establish the guidelines for maintenance of common elements and permit free movement through common areas by members of the homeowners association to assure access to the structure exterior of each townhome unit by the individual unit owner.

36. "Dwelling, group home" means a dwelling shared by four or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which the staff provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible.

37. "Dwelling unit" means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.

38. "Family" means one or more persons each related to the other by blood, marriage, adoption, legal guardianship or as foster parent-children who are living together in a single dwelling and maintaining a common household. Not more than two persons not so related, living together on the premises as a common household, may constitute a "family" in a single-family residential district. A "family" may include domestic servants residing with said "family."

39. "Farm" means an area of 10 acres or more which is used for the growing of the usual farm products, such as vegetables, fruits, trees and grain, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such an area for one or more of the above uses, including the necessary accessory uses for treating or storing the produce; provided, however the operation of such accessory uses shall be secondary to that of the normal

farming activities, and provided further that "farming" does not include the feeding of garbage or offal to swine or other animals.

40. "Flood" means a temporary rise in steam flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

41. "Floodplain" means the land adjacent to a body of water that has been or may be hereafter covered by flood water, including but not limited to the 100-year flood.

42. "Floodway" means the channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and to discharge the flood water or flood flows of any river or stream, including but not limited to flood flows associated with the 100-year flood.

43. "Floor area ratio" means the gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.

44. "Garage, private" means an enclosed structure intended for and used for the housing of motor-driven vehicles of the residents of the premises.

45. "Garage, public" means any building or premises other than a private garage used for the equipping, refueling, servicing, repairing, hiring, selling or storing motor-driven vehicles.

46. "Gas station" means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such product as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories and other items customarily associated with the sale of such products; for the rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are: spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or re-treading of tires. No service operations are permitted outside a fully enclosed building. No outdoor storage of parts and/or vehicles in the process of being repaired is permitted. Truck stops are specifically excluded from this definition.

47. "Height" means the vertical distance from the average level of ground grade to the highest portion of the structure.

48. "Home occupation" means any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the character thereof; and provided that no article is sold or offered for sale except such as may be produced on the premises by members of the immediate family residing on the premises. The following, but not limited to the following, are NOT deemed home occupations: clinics, doctors' offices, hospitals, barber shops, beauty parlors, dress shops, real estate offices, millinery shops, tea rooms, tourist or nursing homes, animal hospitals and kennels.

49. "Hotel" means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding house or lodging house.

50. "Inoperable motor vehicle" means any motor vehicle which lacks current registration or two or more wheels or other component parts, the absence of which renders the vehicle totally unfit for legal use of highways.

51. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old rope, rags, batteries, paper trash, rubber debris, waste; dismantled or inoperable vehicles, machinery and appliances, or parts of such vehicles, machinery or appliances; iron, steel, or other old or scrap ferrous material; old discarded glass, tinware, plastic, or old discarded household goods or hardware.

52. "Junk yard" means any place not fully enclosed in a building, used in whole or in part for the storage, salvage or deposit of junk, used lumber or salvaged wood, whether in connection with a business or not, which encompasses an area of 200 square feet or more, or any place where more than two inoperable motor vehicles or used parts and materials thereof, when taken together equal the bulk of two motor vehicles, are stored or deposited. For the purpose of this chapter, "junk yard" includes salvage yard, wrecking yard, used lumber yard and places for storage of salvage wood.

53. "Kennel, dog" means any premises on which four or more dogs, six months old or older, are kept.

54. "Lodging house" means a building where lodging or boarding is provided for compensation for five or more, but not exceeding 20 persons not members of the family therein residing.

55. "Lot" means, for zoning purposes as covered by 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 a dedicated or private street and may consist of:

A. A single lot of record or a portion of a lot of record;

B. A combination of complete lots of record and/or portions of lots of record;

C. A parcel of land described by metes and bounds, provided that in no case of subdivision shall any residual lot or parcel be created which does not meet the requirements of this chapter.

56. "Lot line" means the property line bounding a lot.

57. "Lot measurements" means:

A. "Depth" means the mean horizontal distance between the front and rear lot lines.

B. "Width" means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the minimum building setback line.

58. "Lot of record" means a lot which is part of a subdivision or a lot or parcel described by metes and bounds, the deed to which is recorded in the office of the Polk County Recorder.

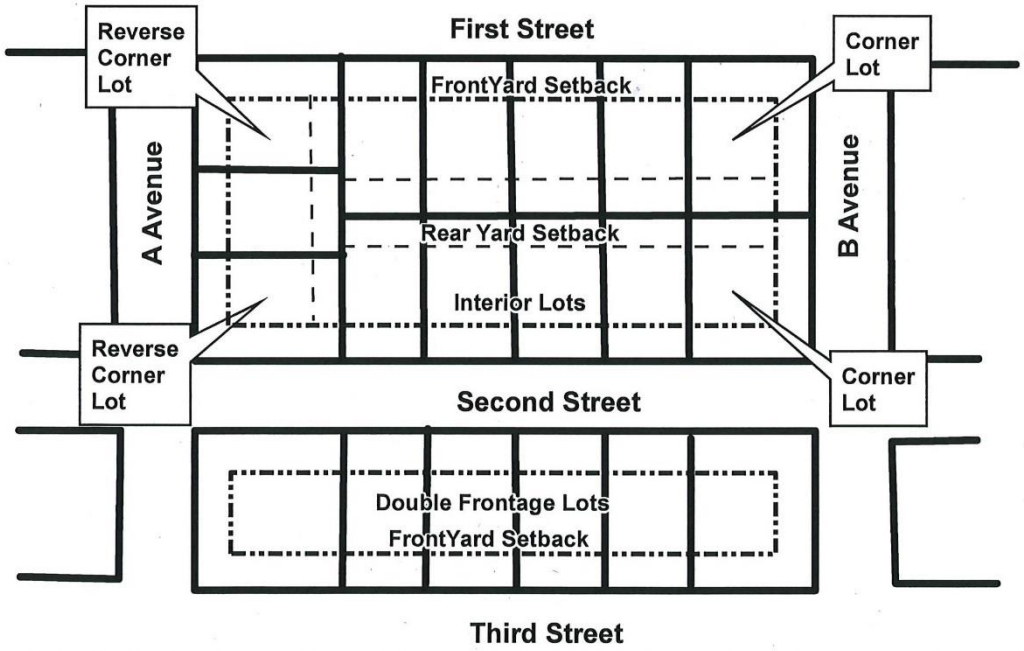
59. "Lot types" means:

A. "Corner lot" means a lot located at the intersection of two or more streets.

B. "Interior lot" means a lot other than a corner lot with only one frontage on a street, other than an alley.

C. "Double frontage lot" means a lot other than a corner lot with frontage on more than one street, other than an alley. Double frontage lots have two front yards. Lots with frontage on two non-intersecting streets may be referred to as "through" lots.

D. "Reverse corner lot" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.



Note: On flag lots, front yard setback is measured from the point the lot meets or exceeds the lot width requirements of the zoning district.

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60. "Manufactured home," as used in this chapter, means a factory-built structure, which is manufactured or constructed under the authority of 42 USC §5403 and which 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 it to permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A "mobile home" is not considered to be a manufactured home, unless it has been converted to real property as provided in the *Code of Iowa*, and shall be taxed as a site-built dwelling.

61. "Mini warehouse" means a building or group of buildings not more than one story and 20 feet in height and not having any other dimension greater than 150 feet per building, containing varying sizes of individualized, compartmentalized and controlled access stalls or lockers for the dead storage of customers' goods or wares, excluding junk explosives or flammable materials, and other noxious or dangerous materials,

including, if any, caretaker or supervisors' quarters as an accessory use. No business activities other than rental or storage units shall be conducted on the premises.

62. "Mobile home" means any vehicle which has been designed and constructed to be towed or driven upon the public highway or waterways, and may be used as a place for human habitation or sleeping place for one or more persons, which has not been converted to real property under the provisions of the *Code of Iowa*.

63. "Mobile home, independent" means a mobile home which has a water closet and a bath tub or shower.

64. "Mobile home service building" means a building housing toilet and bathing facilities for men or women and a "slop-water sink."

65. "Mobile home space, independent" means a mobile home space which has individual water and sewer connections available.

66. "Mobile home park" means any site, lot or portion of a lot upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park.

67. "Motel," "motor lodge," "auto court," etc. means a building or group of attached or detached buildings containing individual sleeping or living units for nonresidents or transients with garage attached or parking facilities conveniently located to each such unit.

68. "Nonconforming use" means any building or land lawfully occupied by a use at the time of passage of this Zoning Code (or any amendment thereto) which does not conform after the passage of the Zoning Code (or amendment thereto) with the use regulations of the district in which it is situated.

69. "Nursing or convalescent home" means a building or structure having accommodations where care is provided for invalid, infirm, aged, convalescent or physically disabled persons, including insane and other mental cases, and inebriate, but not including contagious cases.

70. "Occupant frontage" means that side or wall of a building in which the main public entrance to the premises is located.

71. "100-year flood" or "base flood" means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year as determined by the Iowa Natural Resources Council.

72. "Principal use" means the main use of land or structures as distinguished from an accessory use.

73. "Parking space" means a permanently surfaced area which includes the parking stall plus the maneuvering space required for the parking of motor vehicles. Space for maneuvering, incidental to parking, shall not encroach upon any public right-of-way.

74. "Porch, unenclosed" means a roofed projection which has no more than 50 percent of each outside wall area enclosed by a building or siding material, other than meshed screens.

75. "Recreational vehicle" means any camping-type vehicle, boat trailer, All-Terrain vehicle trailer, snowmobile trailer or utility trailer used or so constructed as to

permit its frequent use as a conveyance upon the public streets or highways and duly licensable as such, and includes self-propelled and non-self-propelled vehicles. For the purposes of this chapter, recreational vehicles shall not include boats, ATVs, or snowmobiles.

76. "Restaurant" means a business where the dispensing and the consumption at indoor tables of edible foodstuff and/or beverage is the principal business, including a café, cafeteria, coffee shop, delicatessen, lunchroom, tearoom, dining room, bar, cocktail lounge or tavern. The total seating area located within the enclosed portion of the premises is more than 50 percent of the total floor area.

77. "Restaurant, drive-in/carry-out" means an auto-oriented use whose principal operation is the dispensing of edible foodstuff and/or beverage for consumption in automobiles, at indoor or outdoor tables, at standup counters or to be carried off the premises. The total seating area, if provided, is less than 50 percent of the floor area.

78. "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 be no floor above it, then the space between the floor and the ceiling of roof next above it.

79. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level. A half story containing independent apartments or living quarters shall be counted as a full story.

80. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

81. "Street line" means a dividing line between a lot, tract, or parcel of land and a contiguous street.

82. "Structural alterations" means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

83. "Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, "structure" includes buildings, walls, fences, billboards and poster panels.

84. "Truck stop" means any large gas station facility containing more than 10 pump dispensers or any gas station designed to accommodate the regular fueling or servicing of semi-trucks.

85. "Vehicle service station" or "Automotive service station" or "lube shop" means any building or premises used for the rendering of minor services and making of adjustments and replacements to motor vehicles, such as oil changes and replacement of filters, and the washing, waxing and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are: spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or re-treading of tires. No service operations are permitted outside a fully enclosed building. No outdoor storage of parts and/or vehicles in the process of being repaired is permitted.

86. "Yard" means an open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

87. "Yard, front" means a yard extending across the full width of the lot and measured, using the least distance, between the front lot line and the building or any projection thereof, other than the projection of the usual steps.

88. "Yard, rear" means a yard extending across the full width of the lot and measured, using the least distance, between the rear lot line and the principal building, excluding steps, decks, unenclosed balconies and porches. On corner lots, the rear yard is the yard opposite the narrowest front yard.

89. "Yard, side" means a yard extending from the front yard to the rear year and measured between the side lot lines and the building.

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165.04 ESTABLISHMENT OF DISTRICTS AND BOUNDARIES. For the purpose of this Zoning Code, the districts are hereby established within the City, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code of Ordinances.

A-1	Agricultural District
R-1	Single Family Detached Residential District
R-1A	Single Family Residential District
R-2	One and Two-Family Residential District
R-2A	Townhome Residential District
R-3	Multiple-Family Residential District
R-4	Mobile Home Park Residential District
C-TS	Town Square Business District
C-1	Central Business District
C-2	Commercial District
C-3	Office Park Commercial District
C-4	Neighborhood Friendly Commercial District
M-1	Light Industrial District
M-2	Heavy Industrial District
GF-1	Government Facilities District
PUD	Planned Unit Development District
FP	Floodplain Overlay District

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Code of the City of Polk City, Iowa, adopted on this _____ day of _____, _____." If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, copies of such changes shall be filed with the Official Zoning Map promptly after the amendment has been approved by the Council.[†] Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made, the Official Zoning Map referred to herein shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City. Where there is uncertainty as to the boundaries of districts as shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the Council may 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 Zoning Code or any subsequent amendment thereto. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on the ____ day of _____, _____, as part of the City's Zoning Code."

(Section 165.04 – Ord. 2023-8000 – Nov. 23 Supp.)

[†] **EDITOR'S NOTE**: (See table at the end of this chapter for ordinances amending the zoning map.)

165.05 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

1. No building or structure or part thereof shall hereafter be erected, constructed, reconstructed or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

2. No building or other structure shall hereafter be erected or altered:

   A. To exceed the height limit herein established;

   B. To accommodate or house a greater number of families;

   C. To occupy a greater percentage of lot area except as approved by the Planning and Zoning Commission and Council as a non-conforming use of land;

   D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; or in any other manner be contrary to the provisions of this chapter.

   E. Which increases its non-conformity.

3. Yards or parts of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall not be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

4. Yards or lots existing at the time of passage of this chapter shall not 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 this chapter.

5. All new residential structures shall meet the minimum square footage requirements as specified in the various zoning districts. The minimum dimension of new residential structures shall be 20 feet in width and length.

165.06 GENERAL REGULATIONS.

1. Fences, Walls, and Vision Clearance.

   A. On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of two and one-half and 10 feet above the centerline grades of the area described as follows: that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines 25 feet from the point of intersection of said right-of-way lines.

   B. No fence shall be constructed without prior approval of a building permit in accordance with Chapter 156 of this Code of Ordinances. All permit fees shall be in accordance with the fee schedules as established by resolution of the Council.

   C. In any residential district, a fence or wall not exceeding 42 inches in height and not greater than 50 percent opaque is permitted within the limits of front yards.

D. In any district, fences and walls not exceeding six feet in height are permitted within the limits of interior side and rear yards, with the exception of double frontage lots. Fences and walls in required rear yards of double frontage lots and in the required street side yards of corner lots shall not exceed 42 inches in height, shall be no greater than 50 percent opaque, and shall not be set back less than a distance of 15 feet from the property line, provided location does not intrude into a required buffer.

E. In any industrial district, a fence not exceeding eight feet in height is permitted within the limits of rear yards and interior side yards.

F. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment. (This provision does not apply to nursing homes or convalescent homes as herein defined.)

G. Acceptable materials for fences in all yards shall include wrought iron and similar decorative steel, wood, vinyl, polymer, decorative masonry components as approved by the Building Official, or other material approved by the Council. Additional acceptable materials for fences in rear yards and interior side yards only shall also include chain link and vinyl-clad chain link. Unacceptable materials shall include woven wire, barbed wire and electrical fencing.

H. No fences shall be placed in or across easements or in such a manner as to restrict drainage. Fences may be permitted within required buffers if specifically approved by the Building Official.

I. Temporary snow fences shall be permitted from November 1 through April 1 of each year without a permit.

J. On residentially-zoned lots 3.0 acres in size or greater and having a minimum of 200 linear feet of frontage to a public street and no more than one residential building on said lot, residential estate fences shall be permitted within the limits of front yards or street side yards subject to the following:

(1) Residential estate fences shall be a maximum of eight feet tall with the exception of decorative individual posts or columns which shall be a maximum of nine feet tall.

(2) Residential estate fences shall maintain a consistency of 50 percent open space for the full length of said fence. This calculation shall be provided by the applicant in conjunction with the building permit and shall consider all materials including posts, columns, structural supports and fabric.

(3) Residential estate fence fabric material shall be wrought iron, powder-coated steel or similar decorative metal. Chain link fences of any type are prohibited.

(4) Residential estate fence columns or posts shall be no closer than eight feet on center. Said columns or posts shall be of permanent construction materials, such as brick or stone; or shall be of wrought iron, powder-coated steel or similar decorative metal to match fence fabric. Concrete block or cast-in-place concrete may be used for structural purposes only.

(5) Residential estate fences shall not be constructed within the vision triangle bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines 25 feet from the point of intersection of said right-of-way lines.

(6) All columns, posts, footings and appurtenances shall be entirely located on private property.

(7) Upon the platting or replatting of a lot, the newly platted lots will be required to meet the then current fence ordinance.

K. On agriculturally-zoned parcels 10 acres in size or greater, farm fences shall be permitted within the limits of front yards or street side yards subject to the following:

(1) Farm estate fences shall be a maximum of four feet tall.

(2) Farm fences shall maintain a consistency of 50 percent open space for the full length of said fence. This calculation shall be provided by the applicant in conjunction with the building permit and shall consider all materials including posts, columns, structural supports and fabric.

(3) Acceptable materials for only farm fences shall be woven wire, barbed wire (no more than three strands per section), electric fence (no more than one strand per section), chain link, vinyl-clad chain link, wrought iron and similar decorative steel, wood, vinyl, polymer, decorative masonry components as approved by the Building Official, or other material approved by Council.

(4) Farm fences shall not be constructed within the vision triangle bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines 25 feet from the point of intersection of said right-of-way lines.

(5) All columns, posts, footings and appurtenances shall be entirely located on private property.

(6) Upon the platting or replatting of a parcel, the newly-platted lots will be required to meet the then-current fence ordinance.

2. Street Frontage Required. Except as may be permitted herein, no lot shall contain any building used for single-family dwelling purposes unless the lot abuts for at least 20 feet on a public street, and no lot shall contain any building used for duplex or multiple-family dwelling purposes unless the lot abuts for at least 40 feet on a public street. On plats filed after January 1, 2003, the minimum frontage distance for single-family dwellings shall increase to 40 feet.

3. Accessory Buildings and Structures. No accessory building shall be erected in any required yard other than a side or rear yard, except as provided herein. Accessory buildings shall be set back at least five feet from rear lot lines and alley lines, and at least five feet from lot lines of adjoining lots, and on a corner lot they shall conform to the setback regulations on the side street as required by the zoning district's development regulations. Accessory buildings may be erected as a part of the principal building or may be connected thereto by a breezeway or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the principal building shall not occupy more than 30 percent of

the required rear yard and shall not exceed 16 feet in average height; however, this regulation shall not be interpreted to prohibit the construction of a garage up to 440 square feet in size on any rear yard that meets the minimum setbacks for the accessory structure. No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

A. Public garages providing storage capacity for more than five motor vehicles or in which motor vehicles are repaired for compensation shall not have an entrance or exit for motor vehicles within 50 feet of any "R" district, or within 100 feet of the entrance or exit of any previously existing public or private school, playground, public library, church, hospital or children's institutions.

4. Mechanical Units. In any residential district, air conditioning compressor-condensers or other mechanical units may be located in any side yard and in any rear yard, provided that: (i) in any side yard adjacent to a street, they shall not be placed more than five feet from the principal structure and shall be screened from the street by a solid fence or plantings; and (ii) in any permitted yard other than a side yard adjacent to a street, the compressor-condenser for any unit of five-ton capacity or more shall not be located within 25 feet of any lot line and a compressor-condenser with less than five-ton capacity shall not be located within five feet of any lot line unless screened therefrom by a solid fence or plantings. In any commercial or industrial district, air conditioning compressor-condensers may be located in any yard adjoining a street if screened therefrom by a solid fence or plantings. Air conditioning compressor-condensers may be located in any side yard which does not adjoin a street and any rear yard, unless the adjoining lot is located in a residential district in which case the residence district regulations shall apply. The bottom edge of required screening in any district shall be no more than six inches above the ground, and the upper edge shall extend not less than one foot above the top of the compressor-condenser.

5. Yards. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a side or rear yard, and except for the ordinary projections of skylights, sills, belt courses, fireplace doghouses, cornices and ornamental features projecting not to exceed 12 inches. Steps may encroach into any yard; however, decks, unenclosed balconies and porches may encroach into rear yards only. Where drainage, slope, or soil conditions necessitate the need for a restrictive easement on a plat the City Council, upon recommendation of the Planning and Zoning Commission or City Engineer, may require rear or side yards on said plat to be established based on a measurement from the easement line rather than the property line.

6. Corner Lots. For corner lots or reverse corner lots, the street side yard shall be equal in width to the front yard setback or to the setback regulation of the adjoining lots to the rear having frontage on the intersecting side street, whichever is less. Exceptions to these requirements, if any, are as stipulated in Section 165.16.

7. Double Frontage Lots. Building on through lots extending through from street to street shall provide the required front yard on both streets. Exceptions to these requirements, if any, are as stipulated in Section 165.16.

8. Mixed-Use Yard Requirements. In instances where buildings are erected containing two or more uses housed vertically, the required side yards for the first floor use shall control.

9. Home Occupations.

A. Purpose. The regulations of this chapter dealing with home occupations are designed to protect and maintain the residential character of the neighborhood, while permitting certain limited commercial activities which have traditionally been carried out in a residential dwelling. The use of the dwelling unit for a home occupation shall be clearly incidental to and subordinate to its use for residential purposes by its occupants.

B. Definition of Home Occupation; Representative Activities. Permitted home occupations include, but are not limited to, the following lists of activities; provided, however, each permitted home occupation shall be subject to the limitations hereinafter set forth, and to all other regulations applicable to the district in which it is located:

(1) Facilities used by a physician, surgeon, dentist, lawyer, clergyman, or other professional person, for emergency consultation or treatment, but not for the general practice of such person's profession.

(2) Providing instruction to no more than four students at a time.

(3) Daycare or babysitting of no more than five nonresident children.

(4) Studio of an artist, photographer, craftsman, writer or composer.

(5) Renting of rooms by a resident owner to no more than two roomers.

(6) Millinery, dressmaking, tailoring, canning, laundering, and similar domestic service activities.

C. Limitation on Home Occupation Activities. Wherever, in this chapter, home occupation activities are authorized in any zoning district, such activity may only be undertaken subject to the following limitations, unless otherwise specified:

(1) No person who is not a member of the immediate family and residing on the premises shall be employed in the activity on the premises.

(2) The activity shall be conducted entirely within the principal dwelling unit or in a permitted accessory building.

(3) The activity shall not involve any outside storage nor in any way create, outside the building, any external evidence of the operation, including signage.

(4) No alteration of a building shall be made which changes the character and appearance thereof as a residential building.

(5) No more than 25 percent of floor area of the principal building shall be devoted to the home occupation.

(6) No mechanical, electrical, or other equipment shall be used except of a type normally used on a residential premise.

(7) No activity shall be permitted which is noxious, offensive, or hazardous by reason of pedestrian or vehicular traffic, or by creation of noise, odor, refuse, heat vibration, smoke, radiation, or any other objectionable emissions, or by interference with televisions, or radio reception.

10. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the 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, rear 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.

11. Open Space. Yards or other open space provided around any building for the purpose of complying with the provisions of this chapter shall not be considered as providing a yard or open space for any other building. The lot area per family shall not be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located. In addition, the minimum total land area devoted to open space in the R-2A, R-3, R-4, C-1, C-2, C-3, C-4, M-1, and M-2 zoning districts only shall not be less than 15 percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped areas, interior or exterior malls, pedestrian walks and ornamental structures, when part of the landscaping theme. Open space shall not include structures or buildings, off-street parking areas, loading areas and access drive. Any owner subject to the requirements of this subsection may make application to the Planning and Zoning Commission for a variance from the same. The Commission shall consider and make recommendation to the Council on the application and variances will be granted only if the owner demonstrates to the satisfaction of the Commission and Council that application of the open space requirements set forth in this subsection work a peculiar hardship on the owner. A "peculiar hardship" means that the owner's property is so situated that an insufficient amount of land is available to accommodate the open space requirements given the nature of the proposed development and which makes the proposed development unfeasible. No peculiar hardship will be determined to exist where the proposed use of the property could accommodate the open space requirements when compared to the space required or actually used in connection with other similar uses in the Des Moines Metropolitan area.

12. Temporary Buildings. Temporary buildings, camping trailers, tents, portable or potentially portable structures shall not be used for dwelling purposes in any district. Camping trailers for overnight use are excluded from the above requirement. All temporary buildings require a building permit and shall be inspected. Temporary buildings shall not be utilized for a period exceeding six months. The Council may approve exceptions for public use.

13. Lots of Record. Any lot of record prior to March 25, 1996, which is located in any residence district and which does not comply in area and/or minimum dimensions with the requirements of the district in which it is located may be used for a single-family structure, provided that all setback and other requirements of this chapter are complied with, and that the owner of such lot did not directly or indirectly have legal title to or enjoy the beneficial interest in the lot or lots contiguous thereto on the effective date of this chapter. No building permit shall be issued for construction on any substandard lot, which lot was of record prior to March 26, 1996, if said lot is adjacent and contiguous to another lot which at the time of the adoption of this chapter

was in the same ownership or whose ownership had beneficial interest in said lot, unless said lots are combined into one lot meeting the requirements of the zoning district which is applicable.

14. Merchandising in Front Yard. No merchandise shall be offered for sale or rent or be displayed or stored in the required front yard in any commercial or industrial district, provided, however, that dispensing devices for motor fuel, air and water shall be permitted if they are set back at least 12 feet from the property line.

15. Manufactured or Modular Homes. Notwithstanding any other provision in this chapter, the plans and specifications of a proposed residential structure shall not be denied solely because the proposed structure is a manufactured or modular home. However, the manufactured or modular home shall be located and installed according to the same standards which would apply to a site-built single-family dwelling on the same lot. This would include, but not be limited to, a foundation system, setback, and minimum square footage.

16. Recreational Vehicles. Recreational vehicles shall not be used for human occupancy in any district for more than 72 hours unless occupied continuously for three months prior to January 1, 2003. Recreational 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.

[The next page is 1239]

165.07 NONCONFORMING USES.

1. Authority to Continue. Any building, structure or use lawfully established and existing on the effective date of this chapter which does not conform to all of the regulations of the district in which it is located may be continued, subject to the provisions of this chapter on the effective date thereof, but which does not conform to any subsequent amendment thereof, may also be continued thereafter subject to the provisions of this chapter.

2. Repairs and Alterations. Repairs and alterations may be made to a nonconforming building, provided that no structural alterations shall be made in or to a building, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, except that structural alterations may be made if they are required by law or are necessary to make the building and use thereof conform to the regulations of the district.

3. Additions and Expansions. A nonconforming building which is nonconforming as to size, height or setbacks, or all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall not be added to, expanded or enlarged unless such addition, expansion or enlargement conforms to all the regulations of the district in which it is located and unless the entire building thereafter conforms to all of the regulations of the district as to size. A nonconforming use of land shall not be expanded or extended beyond the area it occupies which would make it more nonconforming at the date of the adoption of this chapter.

4. Discontinuation. A building, all or substantially all of which is designed or intended for a use which is not permitted in the district in which it is located which is or hereafter becomes vacant and remains unoccupied or is not used for a period of one year, shall not thereafter be occupied or used except in a manner which conforms to the use regulations of the district in which it is located. If a nonconforming use of land is discontinued for a period of six months, such use shall not thereafter be renewed and any subsequent use of the land shall conform to the regulations of the district in which it is located.

5. Restoration of a Damaged Nonconforming Building. A building, designed or intended for a use which is not permitted in the district in which it is located, which is destroyed or damaged by fire or other casualty or act of God to the extent that the cost of restoration shall exceed 60 percent of the cost of replacement of the entire building, shall not be restored unless such building and use thereof shall conform to all the regulations of the district in which it is located. If the cost of restoration of such damaged building does not exceed 60 percent of the cost of replacement of the entire building, repairs or reconstruction shall be commenced within one year from the date of the fire or other casualty or act of God and diligently pursued until completion.

6. Uses Under "Special Permit Uses." Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use by special permit.

[The next page is 1245]

165.08 AGRICULTURAL ZONING DISTRICT REGULATIONS (A-1). Agricultural Districts are intended and designed to preserve agricultural areas, primarily located on the fringe of the developed areas, until such time as these areas are rezoned in conformance with the Comprehensive Plan for development. In addition, land designated as conservation reserve or open space on the Comprehensive Plan should be retained in the A-1 District to prevent premature or inappropriate development. It is intended that the district shall not be used indiscriminately to permit any use that could potentially be detrimental to the public health, welfare, and safety of the community. No temporary buildings, trailers, tents, portable or potentially portable structures shall be used for dwelling purposes.

1. A-1 Agricultural District. The A-1 District is intended and designed to provide and preserve the agricultural and rural use of land until such time as these areas are rezoned in conformance with the Comprehensive Plan for development.

2. Principal Permitted Uses. Principal permitted uses for agricultural districts are as follows:

PRINCIPAL PERMITTED USE	**A-1**
Agricultural - animal production of domesticated animals such as poultry and livestock, including feed lots but excluding confinements.	PR
Agricultural - animal raising (personal), provided no building in which animals are quartered shall be closer than 200 feet to the property line.	P
Agricultural - crop production for growing of the usual farm products such as vegetables, fruits, trees and grain and their storage on site provided such storage is secondary to that of the normal farming operation.	P
Agricultural - roadside stands for sale of produce only, livestock sales are not permitted.	PR
Beekeeping - beekeeping provided no hive or building in which bees are kept shall be closer than 250 feet to the property line.	P
Cemeteries	P
Civic - public parks, playgrounds, or community centers and similar uses.	P
Civic - public sports complexes, tennis courts and similar recreational uses.	P
Hotels - residential bed and breakfast.	P
Religious institutions.	P
Residential - boarding houses.	P
Residential - single-family detached dwellings, no more than one per parcel.	P
Other uses equivalent to the permitted uses listed above as determined by P & Z and approved by Council. Criteria for equivalency include but are not limited to traffic, odors, noise, and lighting levels.	PR
Notes: P = Permitted Use PR = Permitted Use With Restrictions Blank = Use Not Permitted	

3. Restrictions for Principal Permitted Uses: The following restrictions shall apply to the appropriate Permitted Use With Restrictions ("PR") in agricultural zoning districts:

A. Animal Production.

(1) Animal feedlots are permitted for concentrated feeding of animals within a confined area.

(2) No more than one animal will be permitted for every three acres of property that is available for animal production, up to a maximum of 200 total head of animals.

(3) No animals, animal feedlots or buildings quartering animals shall be located within 1,000 feet of any residential or commercial zoning district.

(4) No feedlots or building in which animals are quartered shall be located closer than 200 feet to any pre-existing dwelling, church, school or place of business on abutting property.

(5) No feeding of garbage or offal to swine or other animals shall be permitted.

B. Roadside Stands.

(1) Roadside stands are seasonal structures that are temporary in nature and are less than 200 square feet in size. Nurseries and garden centers are not considered roadside stands.

(2) Roadside stands may have one non-lighted sign on the premises not to exceed 48 square feet in area. The sign shall not be placed in public right-of-way.

(3) Roadside stands shall require P & Z and Council approval of a temporary site plan.

(4) Roadside stands shall require a peddler's permit, if applicable.

4. Accessory Uses. The following accessory uses are permitted in agricultural zoning districts:

A. Customary accessory uses and structures incidental to the permitted principal uses.

B. Agricultural accessory buildings and structures to house agricultural equipment or permitted livestock, excluding buildings and structures used for animal confinement, subject to the following:

(1) Minimum setback for any agricultural accessory building or structure shall be at least 25 feet from all property lines.

(2) Pole buildings are permitted for agricultural accessory buildings.

C. Private garage or carport.

D. The home office of a physician, dentist, artist, attorney, architect, engineer, teacher, or other member of a recognized profession, in said person's bona fide and primary residence; provided that not more than one assistant shall

be regularly employed therein and no colleagues or associates shall use such office and not more than one half the area of one floor shall be used for such office. It is not the intention of this paragraph to include dance studios, music studios, beauty parlors or barber shops, or uses usually referred to as customary home occupations.

E. The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed two per building.

F. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

5. Accessory Structures. Accessory structures may be constructed in agricultural lots as permitted in Section 165.06 of this chapter.

6. Site Development Regulations.

Regulator	**A-1**
Minimum Lot Area	10 acres
Minimum Lot Width	200 feet
Minimum Front Yard	75 feet
Minimum Rear Yard	75 feet
Minimum Side Yard	50 feet
Building Height Limit – principal use	2-1/2 stories or 35 feet
Building Height Limit – agricultural accessory uses	3 stories or 40 feet
Building Height Limit – other accessory uses	1 story or 16 feet

7. Platting.

A. Plats of Subdivision shall not be approved in the A-1 zoning district.

B. Plats of Survey submitted in accordance with Chapter 170 may be approved provided there shall be no more than one split of land, whether said splits are simultaneous or consecutive. Further splitting of land shall require a Plat of Subdivision and are not permitted in the A-1 District.

8. Off-Street Parking. Off-Street parking shall be provided as required by Section 165.18 for all agricultural districts.

9. Site Plans. Site plans shall be required for all uses in all agricultural districts except single family and two-family residential dwellings and agricultural uses. See Chapter 157 for Site Plan requirements.

10. All territory which is annexed to the City shall be considered as lying within the A-1 Agricultural District until such classification has been changed by amendment in accordance with the provisions of this Zoning Ordinance.

11. Exceptions. See Section 165.16 for exceptions to the agricultural zoning district regulations.

[The next page is 1253]

165.09 RESIDENTIAL ZONING DISTRICT REGULATIONS (R-1, R-1A, R-2, R-2A, R-3, AND R-4). The residentially zoned districts are intended to provide for residential areas of various densities, to promote neighborhood quality of life, and to provide for those areas in a manner consistent with the Comprehensive Plan. It is intended that the district shall not be used indiscriminately to permit any use that could potentially be detrimental to the public health, welfare, and safety of the community. Not temporary buildings, trailers, tents, portable or potentially portable structures shall be used for dwelling purposes.

1. Residential Districts.

A. R-1 Single Family Detached Residential District. The R-1 District is intended to provide for the development or redevelopment of low-density residential areas of the City with one-family detached dwellings on individual platted lots.

B. R-1A Single Family Residential District. The R-1A District is intended to provide for the development or redevelopment of low-density residential areas of the City with single family dwellings on smaller individual platted lots.

C. R-2 One- and Two-family Residential District. The R-2 District is intended to provide for the development or redevelopment of low-density residential areas of the City with one- and two-family dwellings on platted lots.

D. R-2A Townhome Residential District. The R-2A District is intended to provide for development or redevelopment of medium-density residential areas of the City with townhome dwellings having at least two and no more than six dwelling units in one structure.

E. R-3 Multiple-Family Residential District. The R-3 District is intended to provide for redevelopment of higher-density residential areas now developed with one-family, two-family, multiple-family dwellings, and condominiums and for development of areas where similar residential development seems likely to occur.

F. R-4 Mobile Home Park Residential District. The R-4 District is intended to provide for the development of certain medium density residential areas, which by reason of their design and location are compatible with surrounding residential areas, with mobile home parks.

2. Principal Permitted Uses. Principal permitted uses for residential districts are as follows:

RESIDENTIAL ZONING DISTRICTS						
PRINCIPAL PERMITTED USE	**R-1**	**R-1A**	**R-2**	**R-2A**	**R-3**	**R-4**
Agricultural - crop production only for growing of farm products such as vegetables, fruits, trees and grain but excluding crop storage, animal production or raising or roadside stands.	P	P	P	P	P	P
Civic - private clubs, lodges or veterans organizations, excepting those holding a beer permit or liquor license.					P	
Civic - public museums, libraries, or community centers and similar uses.	P	P	P		P	
Civic - public or private parks and playgrounds.	P	P	P	P	P	P
Education - child care, including daycares and preschools which are operated as an accessory use to a church or primary school.	P		P		P	
Education - child care, including daycares and preschools which are operated as an accessory use to a single family detached residential use.	P	P	P	P	P	
Education - colleges and universities, including classrooms, administration buildings and athletic facilities but excluding commercial trade schools and business colleges.					P	
Education - primary and secondary schools, public & private, excluding boarding schools.	P	P	P		P	
Education - residential housing including dormitories, fraternities and sororities if recognized by the local college or university.					P	
Hotels - residential bed & breakfast (less than 3 units).		P	P		P	
Hotels - bed & breakfast inn (up to 12 units)				P	P	
Religious institutions.	P	P	P			
Residential - boarding houses.	P		P		P	
Residential - mobile home parks.						PR
Residential - multiple-family dwellings (up to 6 dwelling units per building) including apartments, townhomes and condominiums.				P	P	
Residential - multiple-family dwellings (more than 6 dwelling units per building) including apartments, townhomes and condominiums.					P	
Residential - nursing homes, Assisted Care facilities, Independent Care facilities, and group homes.					P	
Residential - single-family, bi-attached and duplexes.			P		P	
Residential - single-family, detached.	P	P	P	P	P	
Residential - single-family garden homes in townhome regime		P	P	P	P	
Residential - townhomes, attached or detached (up to 6 units per building).				P	P	
Residential - two-family dwellings.			P		P	

Key:
P = Permitted Use
PR = Permitted Use With Restrictions, provided said use is permitted as determined by P&Z and approved by City Council
Blank = Use Not Permitted

3. Restrictions for Principal Permitted Uses.

A. Child care, daycares, and preschools, are subject to the following restrictions:

(1) The building used for such purposes is located not less than 20 feet from any other lot in any residential district.

(2) There shall be provided for each child a minimum of 35 square feet of usable floor space, exclusive of wash rooms, toilets, kitchens, and hallways.

(3) There shall be provided for each child a minimum of 100 square feet of usable outdoor play space, which space shall be confined to the rear yard of the property and be completely enclosed by a fence.

B. Mobile Home Parks and Tiny Home Parks are subject to the following restrictions:

(1) A Master Plan and Development Agreement shall be required for all mobile home parks and tiny home parks in conformance with Chapter 171. Master Plans shall be submitted in conjunction with the petition for rezoning and shall be approved prior to rezoning any property to R-4.

(2) No mobile home park or tiny home park, or any initial stage thereof, shall contain less than 50 mobile home or tiny home spaces.

(3) At least one storm shelter shall be constructed in each mobile home park and tiny home park, which is acceptable to the City Council as to size, location, and construction materials and shall be constructed and maintained as shown on the approved Site Plan.

(4) Parking shall be permitted on only one side of any public or private street within or adjoining the mobile home park or tiny home park. No parking shall be permitted on the south or east side of the street unless otherwise designated on the approved Site Plan.

(5) The parking or storage of recreational vehicles including boats, campers, snowmobiles, four-wheelers, and travel trailers shall not be permitted except in a paved parking lot designated on the approved Site Plan for such use.

(6) Every mobile home or tiny home shall be supported and set, and tie-downs or anchors provided, as specified in the manufacturer's instructions or, in their absence, according to the minimum requirements as specified in Division VI, Part 2 of the Iowa State Building Code.

(7) Only independent mobile homes or tiny homes shall be used for residential purposes which:

a. Are designed for long-term occupancy and contain a flush toilet, a tub or shower, and kitchen facilities;

b. Require a connection to outside sewer and water systems because a waste holding tank and water storage tank are not integral parts of the mobile home or tiny home;

c. Are at least 32 feet in body length exclusive of trailer hitch when factory equipped for the roads;

d. Are not built on a self-propelled motor chassis;

e. Are not identified as a recreational vehicle, such as a camping trailer or motor home, by the manufacturer.

(8) Skirting of permanent type material and construction sufficient to provide substantial resistance to high winds shall be installed within 90 days after the placement of the mobile home or tiny home to enclose the open space between the bottom of the mobile home or tiny home floor and the grade level of the mobile home or tiny home stand. The skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home or tiny home and the appearance of the mobile home park or tiny home park.

(9) Temporary mobile home or tiny home storage may be permitted prior to permanent placement on the mobile home stand or tiny home stand but shall not exceed 60 days.

4. Accessory Uses. Uses not permitted as a principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted in this subsection. The following accessory uses are permitted in residential zoning districts:

A. Customary accessory uses and structures incidental to the permitted principal uses.

B. Private garage or carport.

C. The home office of a physician, dentist, artist, attorney, architect, engineer, teacher or other member of a recognized profession, in said person's bona fide and primary single-family detached residence; provided that: not more than one assistant shall be regularly employed therein and no colleagues or associates shall use such office and not more than one-half the area of one floor shall be used for such office. It is not the intention of this paragraph to include dance studios, music studios, beauty parlors or barber shops, or uses usually referred to as customary home occupations.

D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

E. Temporary use of a dwelling structure within a new subdivision for use as a job office and real estate office for the subject subdivision, which use shall terminate upon substantial completion (75 percent of the lots or units have been sold by the developer) or abandonment of the project (lots, units or homes are not available for sale by developer).

F. In the R-3 district, developed as an Independent Living or Assisted Living Facility, an accessory management office, retail convenience or service shop may be permitted provided that such complex be under one management or similar control and contains more than 30 permanent dwelling units and provided that:

(1) Such shops are located on the first floor or lower and there is no entrance to such place of business except from the inside of the building or internal courtyard.

(2) Display of any stock, goods or advertising is so arranged that it cannot be viewed from outside the building.

(3) No advertising sign shall be permitted that exceeds one square foot in area.

G. Club houses within a residential subdivision where ownership is maintained under a homeowners association. Clubhouses shall be constructed of materials similar to the principal structures within the development and shall meet all site development regulations specified herein. Parking shall be provided at a rate of five stalls per 1, 000 square feet of gross floor area.

H. In the R-4 District, management offices, service buildings, maintenance buildings, storm shelters, recreation buildings, vending and/or food services including groceries, coin operated laundry facilities and mini-storage units, may be permitted if approved by Council on a Site plan as subordinate use to the mobile home park or tiny home park.

5. Accessory Structures. See Section 165.06.

6. Site Development Regulations. Dimensional requirements for residential districts are as follows:

SITE DEVELOPMENT REGULATIONS FOR RESIDENTIAL DISTRICTS						
Regulator	**R-1**	**R-1A**	**R-2**	**R-2A**	**R-3**	**R-4**
Minimum Lot Area[2] (square feet)	10,000	6,400	8,000 -SF 10,000 -2F[8] 5,000 -BI	9,000	7,500 -SF 8,750 -2F 4,375 -BI 12,500 -MF	20 acres
Lot Area per Dwelling Unit[4] (square feet)				3,000	2,500	5,000[7]
Minimum Lot Width[2] (linear feet):	80[2]	65	65 -SF 85 -2F[8] 42.5 -BI	85[5] -TH 100 -MF	65 -SF 75 -2F 38 -BI 85[5] -TH 100 -MF	300
Min. Front Yard Depth (feet)	35	30	30	30	30	50
Min. Rear Yard Depth[6] (feet) Dwellings Other Principal Structures	 35 45	 20 20	 35 35	 35 35	 40	 50
Min. Side Yard Depth[1,6] (feet) One or Two Family Detached Other Principal Structures	 8[3] 20	 8 20	 8[3] 15	 12.5	 8 12.5	 50
Building Height Limit Principal Structure (stories) Principal Structure (feet) Accessory Structure (feet)	 2 ½ 35 16	 2 ½ 35 16	 2½ 35 16	 3 40 16	 3 45 16	 1 20 16

Key:
SF = Single family
BI = Single-family bi-attached (one lot per dwelling unit)
MF = Multiple-family
2F = Duplex, two-family
TH = Townhome

Notes:

1. On corner lots, street side yard shall equal front yard depth except for lots of record prior to January 1, 2003.
2. Except where water and/or sewer is not available, the minimum lot area shall be 40,000 square feet and the minimum lot width shall be 150 feet
3. Except for lots of record prior to December 19, 1991, having a lot width of less than 75 feet, the side yards may be reduced for single-family dwellings only as follows: (i) Each side yard may be reduced to not less than 10 percent of the lot width; and (ii) on corner lots, only the interior side yard may be reduced below 8 feet.
4. If the development maintains common areas under single management or control, the total required lot area for all dwelling units may be provided through a combination of private lots and common outlots.
5. Minimum lot width is for three dwelling units in one townhome structure, additional interior units shall have 25 feet of lot width for each additional unit.
6. Except where rear or side demising wall is a permitted common wall between dwelling units.
7. Each mobile home space shall have a 25 feet front yard measured from edge of private street to closest face of mobile home, a 15 feet rear yard measured from rear space line to closest face of mobile home, and a 20 feet side yard separation between mobile homes. All accessory structures shall have a 25 feet yard on all sides except garages which shall have the same yard requirements for mobile homes.
8. Except for Lots of Record created in an R-2 district prior to January 14, 2013, which shall require a minimum lot area of 8,000 square feet and a minimum width of 75 feet for two-family dwellings.

7. Off-Street Parking. Off-street parking shall be provided as required by Section 165.18 for all residential districts. In addition, the following requirements shall apply:

A. All dwelling units constructed after the adoption of the ordinance codified in this chapter located within any permitted zoning district shall have a minimum two-car, enclosed garage, except for apartment dwellings having less than three bedrooms per unit and except for independent and assisted living units in a senior living facility. ***(Ord. 2022-2600 – Feb. 23 Supp.)***

B. All apartment dwelling units having less than three bedrooms constructed after the adoption of the ordinance codified in this chapter located within any permitted zoning district shall have a minimum one-car, enclosed garage area per unit.

C. Carports shall not be considered as an acceptable enclosed garage or garage area.

8. Site Plans. Site plans shall be required for all uses in all residential districts except single family and duplex family residential dwellings. See Chapter 157 for Site Plan requirements.

9. Division of Single-family lots of record. In any residential district, single-family lots previously platted in a subdivision of similarly sized single-family residential lots shall not be further subdivided or split by a Plat of Survey or by Specific Quantity Description. No building permits shall be issued for either parcel on any such lot so split.

10. Architectural Design Standards. Architectural Standards shall be required in conformance with the provisions of Section 157.09 of this Code of Ordinances.

11. Open Space Requirements. Open space requirements shall be required in conformance with Section 165.06, Subsection 11, of this chapter.

12. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.19 of this chapter.

13. Exceptions and Modifications. See Section 165.16 for exceptions to the R-1, R-2 and R-3 district regulations. However, there shall be no exceptions to the requirements of the R-1A, R-2A or R-4 zoning district regulations and the provisions of Section 165.16 and the provisions of Section 165.06, Subsections 5 and 12 shall not apply to said districts.

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165.10 COMMERCIAL ZONING DISTRICT REGULATIONS (C-TS, C-1, C-2, C-3, AND C-4). The commercially zoned districts are intended to provide for high quality area of various densities and intensities in an effort to promote quality of life, health and general welfare of citizens and visitors while providing a large variety of services and shopping, all consistent with the Comprehensive Plan. It shall be generally recognized that the type of use is not so important as the manner in which the use is accomplished. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Commercial Districts.

A. C-TS Town Square Business District. The C-TS District is intended to provide appropriate development regulations around the historic Town Square. A variety of commercial uses are permitted, with ground level retail and office uses and upper-level office or residential uses. This grouping of uses is designed to strengthen the town square's role as a center for trade, service and civic life.

B. C-1 Central Business District. The C-1 District recognizes the unique mixed-use character of the area surrounding the town square. The development regulations are intended to provide for one- and two-family residential uses interspersed with a variety of commercial uses in a harmonious manner.

C. C-2 Commercial District. The C-2 District is intended and designed to provide for general uses and activities of a retail business, service industry or professional office character that, by nature of their business, provide service and commodities that benefit the community at large. These uses may create land use conflicts with adjacent residential areas, requiring sensitivity in design. This district is most appropriately located along arterial streets or in areas that can be adequately buffered from residential districts.

D. C-3 Office Park Commercial District. The C-3 District is intended and designed to provide for the development of business, professional, and public service offices and office buildings. Auxiliary uses, such as restaurants, will be allowed primarily to serve the needs of existing office uses within the same C-3 district

E. C-4 Neighborhood Friendly Commercial District. The C-4 District is intended and designed to provide for personal services for nearby residences and convenience shopping of the locally travelling public. Uses are intended to be low-intensity businesses that are wholly contained within the buildings. The design of buildings in the district is encouraged to be residential in character, with pitched roofs and landscaping, to blend with nearby neighborhoods.

2. Principal Permitted Uses. Principal permitted uses for commercial districts are as follows:

COMMERCIAL ZONING DISTRICTS					
PRINCIPAL PERMITTED USE	**C-TS**	**C-1**	**C-2**	**C-3**	**C-4**
Animal boarding and kennels, domesticated only.	PR	PR	PR		
Animal hospitals and Veterinary Clinics.			P		
Auditoriums, Movie Theaters.	P	P	P		
Automotive - automobile, truck & equipment sales & service.			P		
Automotive - service and repairs, including tire sales & repair and small engine repair.			P		
Automotive - Truck or trailer rental establishments.			P		
Automotive - vehicle wash.		P	P		
Automotive Supply (retail).	P	P	P		
Banks and Financial Institutions, including ATM machines and drive-thru teller lanes.	P	P	P	A	PR
Business and Professional Offices and Agencies.	P	P	P	P	P
Cemetery Services - Funeral Homes, Mortuaries.	PR	PR	P		
Civic - Libraries, museums, and similar institutions of an educational or philanthropic nature.	P	P	P		P
Civic - Private clubs, lodges, youth centers, community centers, or veterans organizations, except those holding a beer permit or liquor license.	PR	PR	P	A	P
Civic - Public parks and playgrounds.	P				
Civic - Town Square, Farmer's Market.	P				
Commercial Entertainment - (indoors) including fitness centers and amusement centers except Studios and Adult Entertainment.		PR	P	A	
Commercial Entertainment - Adult Entertainment.			PR		
Commercial Recreation (primarily outdoors) including private playgrounds, parks and golf courses; and amusement enterprises.	PR		PR		
Convenience Stores, Gas Stations.		P	P	A	
Drinking Establishments, Billiard Halls.	PR	PR	PR	A	
Education - Colleges and Universities; including classrooms, administration buildings and athletic facilities.					P
Education - Child Care, including Daycares and Pre-schools.	P	P	P	A	P
Education - Commercial Trade Schools and Business Colleges.			P	A	
Education - Primary and Secondary schools, public & private.					P
Education - Residential Housing including dormitories, Fraternities and Sororities if recognized by the local college or university.					P
Hotels - Bed & Breakfast / B&B (up to 3 units) and Bed & Breakfast Inns (up to 12 units).	P	P	P		P
Hotels - hotels, motels, B&B Hotels (more than 12 units), and lodging houses.	PR		P		
Laundry - dry cleaning operations occupying more than 6000 square feet of gross floor area.	PR	PR	PR		

PRINCIPAL PERMITTED USE (continued)	C-TS	C-1	C-2	C-3	C-4
Laundry - launderettes, coin-operated - pressing, repair, dry cleaning pickup and dry cleaning operations occupying less than 6000 square feet of gross floor area.	P	P	P		PR
Medical Hospitals.			P	P	
Medical Offices, Health Clinics.	P	P	P		P
Nurseries and Greenhouses.			P		
Post Office Substations.	P	P	P		
Printing and publishing houses.			P		
Religious Institutions.	PR	PR	PR		PR
Residential - Apartments located only on second floor and above.	P	P			P
Residential - Boarding Houses.					P
Residential - Multiple-family apartments and condominiums; and townhomes, either attached or detached.					P
Residential - Nursing homes, Assisted Care Facilities, Independent Care Facilities, and group homes.					PR
Residential - Single-family and two-family dwellings.		P			
Restaurants - coffee shops with drive-through.	PR	PR	PR	A	PR
Restaurants - Delicatessens, ice cream parlors, and Fast Food including carry-out.	P	P	P	A	P
Restaurants - Fast Food drive-through.	PR	PR	PR	A	
Restaurants - Full-service sit-down.	P	P	P	A	P
Retail bakeries and dairy stores.	P	P	P	A	P
Retail grocery stores, supermarkets; drug stores.	PR	PR	P		
Retail Hardware & Lumber Yards, building material sales yards, millwork.			PR		
Retail Hardware stores; Home Improvement stores excluding outdoor sales yards.	P	P	P		
Retail shops (less than 6000 sf).	P	P	P	A	P
Retail stores (6000 sf and larger).		P	P		
Retail stores with associated manufacturing such as pottery shops with kilns.	PR	PR	PR		
Retail stores with incidental repairs (appliance, bicycle, jewelry).	P	P	P		
Salons - Hair, nail.	P	P	P		P
Studios - Music, Photographic, Dance, and Fitness Centers, all less than 6000 sf in size.	P	P	P	A	
Warehouse - Locker storage & retail sales only.		P			
Other retail business or service establishments equivalent to the permitted uses listed above.	PR	PR	PR	PR	PR

Key:
P = Permitted Use
PR = Permitted Use With Restrictions, provided said use is permitted as determined by P&Z and approved by City Council
A = Auxiliary Use With Restrictions, provided said use is permitted as determined by P&Z and approved by City Council
Blank = Use Not Permitted

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions

A. Outdoor storage of materials or equipment is not permitted in the C-2, C-3, or C-4 Districts except and specifically approved by Council on a Site Plan. Said storage shall be limited to areas designated on the Site Plan and shall be maintained and screened in conformance to the Site Plan.

B. Automobile, truck and equipment sales and service shall be permitted provided that all outside storage, display and parking areas shall be used and maintained in conformance with an approved Site Plan and the parking, display and storage of vehicles for hire, rental or sale shall be limited to the area designated for such use in the Site Plan. All storage shall be on paved surfaces.

C. No uses shall be permitted to be established or maintained in any district which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owning to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter, or water-carried waste.

D. Permitted uses with restrictions shall demonstrate said use will not have any detrimental impact on existing neighboring uses due to traffic congestion or parking needs, particularly in the C-TS, C-1, and C-4 Districts.

E. Adult Entertainment Business uses shall be subject to the following restrictions:

(1) These uses shall not be located within 1,500 feet of any other adult entertainment use; within 1,500 feet of any public, parochial or private school, licensed daycare facility, regular school bus stop, church, public park, supermarket, convenience store, or restaurant catering to family trade; or within 1,500 feet of any residential or agricultural zoning district or residentially-used or agriculturally-used property. Said distances shall be measured from property line to property line.

(2) All building openings, entries, exits, windows and the like shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. For new construction, and whenever else it is considered feasible by the Zoning Enforcement Officer, the building shall be oriented so as to minimize any possibility of viewing the interior from pubic or semi-public areas.

(3) Advertisement, displays, signs or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, trails, or other public or semi-public areas.

(4) Notwithstanding anything to the contrary otherwise set forth in this chapter, adult entertainment businesses shall be permitted only in the C-2 zoning district and then only in compliance with the other restrictions set forth herein. It is the intent of this provision to permit the location of adult entertainment businesses solely in areas zoned C-2 and not in any other district including but not limited to agricultural, residential or industrial districts.

Religious Institutions shall be subject to the following restrictions:

(1) Religious Institutions that have not received Site Plan approval by the City Council as of the effective date of the ordinance codified in this chapter shall not be permitted in the C-2 Commercial District.

(2) Religious Institutions for which a Site Plan has been approved by City Council as of the effective date of the ordinance codified in this chapter shall be considered a permitted use in the C-2 Commercial District. Subsequent amendments to the Site Plan for improvements including but not limited to additional parking areas, access roads, and building additions, may be considered for approval by City Council.

4. Auxiliary Uses. An auxiliary use shall mean a conditional use consisting of certain low-intensity commercial establishments which are primarily intended, designed and utilized to serve the proven needs of the principal permitted uses within the same zoning district. Possible auxiliary uses are noted with an "A" in the Permitted Principal Uses table for commercial districts. Auxiliary uses shall only be approved within a C-3 District in conjunction with a Site Plan and only provided the following conditions are satisfied:

A. The auxiliary uses shall primarily serve the needs of the principal permitted uses within the same C-3 district that are either in existence or will be constructed at or about the same time as the auxiliary use.

B. The design, aesthetics, location and character of the auxiliary structure or use shall be compatible with the principal permitted uses with the C-3 District.

C. The auxiliary use shall not adversely affect the setting and quality of development for the principal permitted uses within the C-3 District due to over concentration or over saturation of auxiliary uses within the same district.

D. The auxiliary use shall not generate substantial additional traffic nor create traffic congestion beyond that which would occur if any principal permitted use was to locate on the same site.

E. The auxiliary use shall not be hazardous, detrimental, or disturbing to principal permitted uses, nor to adjoining of abutting properties due to dust, glare, noise, smoke, odor, fumes, vibration or other effects not consistent with the principal permitted uses within the C-3 District.

5. Accessory Uses. Uses not permitted as a Principal Permitted Use for that zoning district shall not be permitted as an accessory use except as specifically permitted in this subsection. The following accessory uses are permitted in commercial zoning districts:

A. Customary accessory uses and structures incidental to the permitted principal uses.

B. Private garage or carport in association with a permitted residential use.

C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

6. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.

7. Site Development Regulations. Dimensional requirements for commercial districts are as follows:

SITE DEVELOPMENT REGULATIONS FOR COMMERCIAL DISTRICTS					
Regulator	**C-TS**	**C-1**	**C-2**	**C-3**	**C-4**
Building Height Limit	3 Stories or 45 feet	3 Stories or 45 feet	4 Stories or 60 feet	None	2 Stories or 35 feet
Minimum Lot Area	None[4]	None[4]	None	None	None[4]
Minimum Lot Width	None	None	None	None	None
Minimum Front Yard Depth	None	None[5]	25 feet	25 feet	25 feet
Minimum Side Yard Depth	None	None[2]	None[1]	None[1]	None[2]
Minimum Rear Yard Depth	None[1]	None[2]	35 feet[1,3]	35 feet[3]	35 feet[3]

Notes:

1. Except 20 feet where adjacent to "R" residential districts or the width of the required buffer easement, whichever is greater.
2. Except 20 feet where adjacent to "R" residential districts or the width of the required buffer easement, whichever is greater, and except for structures or buildings containing dwelling units which shall have sides of 8 feet minimum and rear yards of 15 feet minimum.
3. For each foot that the front yard is increased over 25 feet, the rear yard may be decreased proportionately, except that where the rear yard adjoins an "R" District, there shall be a minimum rear yard of 20 feet required adjacent to said lot line or the width of the required buffer easement whichever is greater.
4. Except where residential uses are permitted, lot area shall be 1000 square feet minimum per dwelling unit.
5. For one- and two-family dwellings, the front yard shall be the average of the existing established building setbacks of all similar dwellings within 250 feet of the property as measured along right-of-way lines.
6. Permitted single-family detached dwellings in the C-1 District must meet the minimum lot area and lot width requirements of the R-1A district.
7. Permitted two-family dwellings in the C-1 District must meet the minimum lot area and lot width requirements of the R-2 district.

8. Off-Street Loading. Off-street loading shall be provided as required by Section 165.17 for all commercial districts with the exception of C-TS zoning district.

9. Off-Street Parking. Off-street parking shall be provided for all uses in all commercial districts with the exception of retail shops, offices, restaurants (except fast food restaurants) and similar low-intensity uses in the C-TS zoning district. See Section 165.18 for off-street parking requirements. In addition, each dwelling unit constructed after the adoption of the ordinance codified in this chapter located within a C-1 district shall have a minimum two-car garage with the exception of apartment units with less than three bedrooms which shall have a minimum one-car garage.

10. Site Plans. Site plans shall be required for all uses in all commercial districts except single family and duplex family residential buildings in the C-1 zoning district. See Chapter 157 for Site Plan requirements.

11. Architectural Design Standards. Architectural Standards shall be required for all uses in all commercial districts consistent with the provisions of Section 157.09.

12. Open Space Requirements. Open space requirements shall be required for all commercial zoning districts, with the exception of the C-TS District, in conformance with Section 165.06, Subsection 11, of this chapter.

13. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.19 of this chapter.

14. Signs. All signage including, but not limited to, building and wall signs, monument and pole signs, shall be in conformance with Chapter 166.

15. Exceptions and Modifications. See Section 165.16 for exceptions to the commercial zoning district regulations.

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165.11 INDUSTRIAL ZONING DISTRICT REGULATIONS (M-1 AND M-2). The industrially zoned districts are intended to provide for manufacturing processes of various intensities needed on a local, State, or national level while promoting the quality of life, health, and general welfare desired by the citizens of the City, all consistent with the Comprehensive Plan. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Industrial Districts.

A. M-1 Light Industrial District. The M-1 district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development while assuring that facilities are served with adequate parking and loading facilities and buffered from less intensive uses.

B. M-2 Heavy Industrial District. The M-2 district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility.

2. Principal Permitted Uses. Principal permitted uses for industrial districts are as follows:

INDUSTRIAL ZONING DISTRICTS		
PRINCIPAL PERMITTED USE	**M-1**	**M-2**
Animal boarding and kennels, domesticated only.	P	P
Animal hospitals and Veterinary Clinics.	P	P
Animal Livery stable or riding academy.		P
Auditoriums, Movie Theaters.	P	P
Automotive - automobile, truck & equipment sales & service.	P	P
Automotive - service and repairs, including tire sales & repair and small engine repair.	P	P
Automotive - assembly or major repairs, machine shops.	P	P
Automotive - body and fender repair shop, but not including automobile wrecking or used parts yards, or outside storage of automobile component parts.	P	P
Automotive - Tire vulcanizing, re-treading and recapping.		P
Automotive - Truck or trailer rental establishments.	P	P
Automotive - truck stop, including repairs.	P	P
Automotive - vehicle wash.	P	P
Automotive Supply (retail).	P	P
Banks and Financial Institutions, including ATM machines and drive-thru teller lanes.	P	P
Business - Business and Professional Offices and Agencies.	P	P
Business – Technology business related to manufacturing, research and distribution.	P	P
Cemetery Services - Funeral Homes, Mortuaries.	P	P
Cemetery Services - Cemeteries.		
Cemetery Services - Crematories, if not less than 200 feet from any “R” district.	P	P

PRINCIPAL PERMITTED USE (continued)	M-1	M-2
Cemetery Services - Monument Sales and engraving.	P	P
Civic - Libraries, Museums and similar institutions of an educational or philanthropic nature.	P	P
Civic - Public parks and playgrounds.		
Commercial Entertainment - (indoors) including fitness centers and amusement centers except Studios and Adult Entertainment.	PR	PR
Commercial Recreation (primarily outdoors) including private playgrounds, parks and golf courses; and amusement enterprises.	PR	PR
Convenience Stores, Gas Stations.	P	P
Drinking Establishments, Billiard Halls.	P	P
Education - Child Care, including Daycares and Pre-schools.	P	P
Education - Commercial Trade Schools and Business Colleges.	P	P
Education - Primary and Secondary schools, public & private.		
Education - Residential Housing including dormitories, Fraternities and Sororities if recognized by the local college or university.	P	P
Laboratories - film, testing, experimental.	P	P
Laundry - Bag, carpet and rug cleaning.	P	P
Laundry - dry cleaning operations occupying more than 6000 sf of gross floor area.	P	P
Laundry - launderettes, coin-operated - pressing, repair, dry cleaning pickup and dry cleaning operations occupying less than 6000 square feet of gross floor area.	P	P
Manufacture and repair of electric signs, advertising structures, light sheet metal products, and heating & ventilating equipment.	P	P
Manufacture of musical instruments, novelties and molded rubber products.	P	P
Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or natural gas.	P	P
Manufacture or assembly of electrical appliances, instruments and devices.	P	P
Manufacturing creameries, bottle works, wholesale ice and ice cream plants, cold storage warehousing and distribution stations.	P	P
Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns and wood.	P	P
Manufacturing, distribution, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, and food products, except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.		P
Medical Hospitals.	P	P
Metals - Blacksmith, welding, cooperage works or other metal shop including enameling, lacquering or painting with controlled emissions not causing noxious fumes or odors.	PR	P
Metals - Foundry casting lightweight non-ferrous metals or electric foundry, not causing noxious fumes or odors.		P
Mineral Extraction, sand & gravel pits, and smelting of ores.		P
Nurseries and Greenhouses.	P	P
Post Office Substations.	P	P
Printing and publishing houses.	P	P
Public Transportation terminals, including bus stations, airports and landing fields.	PR	PR
Religious Institutions.	P	P

PRINCIPAL PERMITTED USE (continued)	M-1	M-2
Restaurants - coffee shops with drive-through.	PR	PR
Restaurants - Delicatessens, ice cream parlors, and Fast Food including carry-out.	P	P
Restaurants - Fast Food drive-through.	PR	PR
Restaurants - Full service sit-down.	P	P
Retail bakeries and dairy stores.	P	P
Retail Farm Machinery and Mobile/Modular Home sales and repair.	P	P
Retail grocery stores, supermarkets; drug stores.	P	P
Retail Hardware & Lumber Yards, building material sales yards, millwork.	P	P
Retail Hardware stores; Home Improvement stores excluding outdoor sales yards.	P	P
Retail shops (less than 6000 sf).	P	P
Retail stores (6000 sf and larger).	P	P
Retail stores with associated manufacturing such as pottery shops with kilns.	P	P
Retail stores with incidental repairs (appliance, bicycle, jewelry).	P	P
Salons - Hair, nail.	P	P
Sawmill, planing mill, and manufacture of wood products not involving chemical treatment.	P	P
Studios - Music, Photographic, Dance, and Fitness Centers, all less than 6000 sf in size.	P	P
Tannery.		P
Warehouse - Locker storage & retail sales only.	P	P
Warehouse - Mini-storage, RV storage, Boat Storage.	P	P
Warehouse storage & distribution of explosives, liquid fertilizer or coal.		PR
Warehouse storage & distribution of non-flammable, non-explosive and non-perishable goods.	P	P
Wholesale - Bakeries.	P	P
Wholesale storage or refining of petroleum, ethanol or products thereof including asphalt plants.		SP
Yards - Circus, carnival or similar transient enterprise, provided such structures or buildings shall be at least 200 feet from any "R" District.		P
Yards - Concrete mixing, concrete product manufacture.		P
Yards - Contractors' equipment storage yard or plant, including hauling services, or rental of equipment commonly used by contractors.	PR	P
Yards - junk, iron, rag, waste paper; including storage or bailing if completely obscured.		PR
Yards - livestock feed sales and storage provided dust is effectively controlled.	PR	PR
Yards - Sanitary Landfill or transfer station.		PR
Yards – truck terminal yards		PR
Other manufacturing or service establishments equivalent to the permitted uses listed above.	PR	PR
Fireworks Retail Sales Facility	P	

Key:
P = Permitted Use
PR = Permitted Use With Restrictions, provided said use is permitted as determined by P&Z and approved by City Council
Blank = Use Not Permitted

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate Permitted Use with Restrictions:

A. Outdoor storage of materials or equipment is not permitted in the M-1 or M-2 Districts except and specifically approved by Council on a Site Plan. Said storage shall be limited to areas designated on the Site Plan and shall be maintained and screened in conformance to the Site Plan.

B. Automobile, truck, and equipment sales, service, and leasing shall be permitted provided that all outside storage, display and parking areas shall be used and maintained in conformance with an approved Site Plan and the parking, display and storage of vehicles for hire, rental or sale shall be limited to the area designated for such use in the Site Plan. All storage shall be on paved surfaces. RV, camper, and boat sales and rentals are not permitted outdoors.

C. Mini storage facilities, mini-warehouses, and outdoor storage spaces for recreational vehicles of any kind, including all access drives and parking areas, shall be on paved surfaces. ***(Ord. 2022-2600 – Feb. 23 Supp.)***

D. No uses shall be permitted to be established or maintained in any district which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owning to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.

4. Accessory Uses. Uses not permitted as a Principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted herein. The following accessory uses are permitted in industrial zoning districts:

A. Customary accessory uses and structures incidental to Permitted Principal Uses.

B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

5. Accessory Structures. Accessory structures may be constructed on commercial properties as permitted in Section 165.06.

6. Site Development Regulations. Dimensional requirements for industrial districts are as follows:

SITE DEVELOPMENT REGULATIONS FOR INDUSTRIAL DISTRICTS		
Regulator	**M-1**	**M-2**
Building Height Limit	4 Stories or 75 feet	4 Stories or 75 feet
Minimum Lot Area	None	1 acre
Minimum Lot Width	None	150 feet
Minimum Front Yard Depth	30 feet	30 feet
Minimum Side Yard Depth	None[1]	None[2]
Minimum Rear Yard Depth	40 feet[3]	40 feet[3]

Notes:

1. Except 30 feet where adjacent to "R" residential districts.
2. Except 200 feet where adjacent to "R" residential districts and except 100 feet where adjacent to commercial districts.
3. Where rear lot line is adjacent to a railroad right-of-way, no setback is required.

7. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.

8. Off-Street Loading. Off-street loading shall be provided as required by Section 165.17 for all industrial districts.

9. Off-Street Parking. Off-street parking shall be provided as required by Section 165.18 for all industrial districts.

10. Site Plans. Site plans shall be required for all uses in all industrial districts. See Chapter 157 for Site Plan requirements.

11. Architectural Design Standards. Architectural Standards shall be required for all uses in all industrial districts consistent with the provisions of Section 157.09.

12. Open Space Requirements. Open space requirements shall be required for all industrial zoning districts in conformance with Section 165.06, Subsection 11, of this chapter.

13. Landscape, Planting and Screening. Open space planting, parking area landscaping buffer screening with easements shall be required in accordance with Section 165.19 of this chapter.

14. Exceptions and Modifications. See Section 165.16 for exceptions to the industrial zoning district regulations.

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165.12 GOVERNMENT FACILITIES DISTRICT REGULATIONS (GF-1). The government facilities district zoned districts are intended to provide for publicly-owned and maintained buildings, utilities, parks and open space and related infrastructure and the development or redevelopment of major public facilities as needed on a City, State, or national level, while promoting the quality of life, health, and general welfare desired by the citizens of the City, all consistent with the Comprehensive Plan. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Government Facilities District. The GF-1 District is intended to provide for the development and redevelopment of publicly-owned and maintained facilities for uses such as civic, educational, public and franchise utilities facilities. The GF-1 District is also intended to provide for parks and reserve open space for wildlife refuges, reservoirs and stormwater management facilities.

2. Principal Permitted Uses. Principal permitted uses for public utility districts are as follows:

PUBLIC UTILITY ZONING DISTRICTS	
PRINCIPAL PERMITTED USE	**U-1**
Cemetery Services – Cemeteries including accessory mortuaries if publicly owned.	P
Civic – City Hall, Police Station, Fire Station, Libraries, Museums and similar institutions of a civic, educational or philanthropic nature.	P
Civic – Public parks and playgrounds.	P
Civic – Public open space, wildlife refuges, and stormwater management facilities.	
Education - Primary and Secondary schools, public & private.	P
Public Transportation terminals, including bus stations, airports and landing fields.	PR
Public uses maintained by any agency of federal, State, or local government and or public or franchise utility structures and equipment	P
Other public uses equivalent to the permitted uses listed above.	P
Key: P = Permitted Use PR = Permitted Use With Restrictions, provided said use is permitted as determined by P&Z and approved by City Council Blank = Use Not Permitted	

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate permitted use with restrictions:

A. Public transportation terminals are not permitted in the GF-1 District except and specifically approved by Council on a Plat of Subdivision and the necessary public improvements and easements have been provided to support such use.

4. Accessory Uses. Uses not permitted as a principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted herein. The following accessory uses are permitted in industrial zoning districts:

A. Customary accessory uses and structures incidental to permitted principal uses.

B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

5. Accessory Structures. Accessory structures may be constructed on government facilities properties as permitted in Section 165.06.

6. Site Development Regulations. Dimensional requirements for government facilities districts are as follows:

SITE DEVELOPMENT REGULATIONS FOR GOVERNMENT FACILITIES DISTRICTS	
Regulator	**U-1**
Building Height Limit	2 ½ stories or 35 feet
Minimum Lot Area	None
Minimum Lot Width	None
Minimum Front Yard Depth	0 feet[1]
Minimum Side Yard Depth	0 feet[1]
Minimum Rear Yard Depth	0 feet[1]

Notes:

1. Building setback requirements for publicly-owned lands shall correspond to the minimum required yards for the abutting properties based on zoning of the abutting property, unless such setbacks are reduced or waived by City Council, after notice and public hearing.

2. Utility structures that are primarily located below ground, such as sanitary sewer lift stations and valve vaults, are exempt from building setback requirements. However, the building setback requirements for associated above-grade structures shall correspond to the minimum required yards for the abutting properties based on zoning of the abutting property, unless such setbacks are reduced or waived by City Council, after notice and public hearing.

7. Off-Street Loading. Off-street loading shall be provided as required by Section 165.17 for all government facilities districts.

8. Off-Street Parking. Off-street parking shall be provided as required by Section 165.18 for all government facilities districts.

9. Site Plans. Site plans shall be required for all uses in all government facilities districts except for improvements located on federally-owned lands. See Chapter 157 for site plan requirements.

10. Exceptions and Modifications. See Section 165.16.

(Section 165.12 – Ord. 2023-8000 – Nov. 23 Supp.)

[The next page is 1293]

165.13 PLANNED UNIT DEVELOPMENT DISTRICT REGULATIONS (PUD).

1. The PUD district is intended and designed to promote and encourage development or redevelopment of tracts of land on a planned, unified basis by allowing greater flexibility for those developments that propose a creative and innovative design whose layout is not achievable under the standards of other zoning districts. A PUD shall consist of an arrangement and selection of land uses in groupings that are organized and designed as an integrated unit rather than a collection of independent building and sites. The integrated design shall include a holistic presentation of elements such as building orientation and materials, utilities, parking areas, traffic circulation, sidewalks, trails, landscaping and open spaces that satisfy the individual site needs while achieving greater value for the entire development area. The PUD district shall be reserved for only those developments, which meet one or more of the following criteria:

A. Developments that provide for varying land uses to coexist within the same development so that the growing demands of the population may be met by greater variety in type, design, and layout.

B. Developments which encourage a more efficient use of land through the incorporation of public/private spaces or uses which enhance the community at large.

C. Developments that provide both public and private open spaces that accent and enhance both the architectural and natural features of the development and provide for the protection and preservation of existing vegetative and water resources.

D. Developments that present a common and unified theme through the use of architecturally compatible detailing to form a part of a larger composition rather than separate land uses designed in isolation of one another.

2. Principal Permitted Uses. Principal permitted uses for PUD zoned property may consist of residential uses, neighborhood commercial uses, neighborhood office uses and any combinations thereof. If it is determined by the Zoning Enforcement Officer that a proposed use is not compatible and consistent with the proposed PUD, the property owner shall have the right to appeal the decision to the Planning & Zoning Commission and City Council pursuant to the regulations for amendments as expressed in Section 165.26 of this Chapter.

A. Residential uses shall be defined as single-family residential, attached dwellings, multiple family residential, assisted and independent living facilities and nursing homes.

B. Neighborhood Commercial uses shall be defined as those uses which normally and customarily service the surrounding residential properties. Neighborhood Commercial uses may include, but not be limited to, dry cleaners, delis, coffee shops, markets, and small retail establishments.

C. Neighborhood Office uses shall be defined as those office uses which normally and customarily service the surrounding residential properties. Neighborhood Commercial uses shall include, but not be limited to, small medical clinics, veterinarians, and banks.

3. Accessory Uses. The following accessory uses are permitted in PUD districts:

A. Customary accessory uses and structures incidental to permitted principal uses.

B. Private garage or carport in association with a permitted residential use.

C. Golf courses, parks, playgrounds, aquatic centers and similar amenities, whether public or private, that benefit the neighborhood and/or the community at large.

D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

4. Site Development Regulations.

Regulator	PUD District
Minimum Area of PUD District	10 acres, unless specifically waived by City Council based on site constraints.
Note: A PUD District may include one or more contiguous tracts of land, whether or not they are under the same ownership, provided all tracts of land are included in one overall Master Plan and all property owners sign a Development Agreement.	

5. Accessory Structures. Accessory structures may be constructed on properties as permitted in Section 165.06. Where the planned unit development is not specifically mentioned, the requirements shall be consistent with the residential district requirements where the principal use of the property is residential and the commercial district requirements where the principal use of the property is commercial.

6. Site Development Regulations. Dimensional requirements, density, setbacks and height requirements shall be clearly specified within the Development Plan and Development Agreement. The minimum setbacks along the perimeter of the project, abutting adjoining properties, shall meet the minimum requirements of the zoning in place before the property is rezoned to PUD or of the adjacent zoning district, whichever is greater.

7. Platting Required. Prior to development of any property within a PUD, the entire tract of land within the PUD shall be platted in accordance with Chapter 170 of this Code of Ordinances prior to approval of any site plans or issuance of any building permits. Parcels of land with said tract that are set aside for future development shall be platted as outlots.

8. Common Elements. Covenants shall be provided and recorded with any plat or site plan within a PUD. Said covenants shall enumerate all common elements within said plat and establish the guidelines for maintenance of said common elements. Common elements may include, but are not limited to, items such as private streets, parking lots, sidewalks, trails, sanitary sewers, water lines, storm sewers, detention facilities, landscaping, and multi-tenant signs.

9. Off-Street Parking. Adequate parking shall be provided within the PUD based upon the proposed uses. Shared parking for varying uses shall be strongly encouraged. Congestion on adjacent public streets shall be minimized.

10. Traffic. Traffic circulation within the PUD shall be designed to minimize congestion both on adjacent public streets and within the development. Traffic Impact

studies may be required for review by the City Engineer. Turning lanes shall be provided as needed.

11. Pedestrian and Recreational Circulation. Sidewalks shall be designed within a PUD to encourage pedestrian circulation throughout residential and commercial areas and to link the varying uses. Recreational trails shall be provided to connect to existing and future trail systems and to promote alternate modes of transportation.

12. Signs. Signage within a PUD shall serve as a unifying element while creating measured and consistent identification of the various land uses within the PUD. Monument and wall sign area and height limitations as well as lighting and architectural style shall be clearly indicated on the Development Plan and Development Agreement.

13. Architectural Design Standards. Buildings within a PUD shall be designed to be architecturally compatible with each other and should be seen as a larger composition as opposed to individual buildings. Buildings shall be designed to promote quality architecture and design elements along all four building elevations. The uses of similar colors, materials, façade projections and recesses, articulated roof lines, enhanced entrances, lighting, windows and architectural features such as awnings are encouraged to make the development architecturally compatible as a whole.

14. Open Space and Landscaping Requirements. Open space requirements within a PUD shall consist of both public and private landscape areas, natural areas, plazas and courtyards designed to enhance the architectural and natural features of the development

15. Buffer Screening. The Planned Unit Development shall consider compatibility of uses. Landscaping shall be incorporated into the overall design and transitional uses considered in order to minimize the need for buffer easements and/or fences to screen neighboring uses.

16. Master Plan and Development Agreement. A Master Plan and Development Agreement shall be required for all PUD districts. The Master Plan shall cover the entire parcel to be zoned as PUD. The Master Plan shall have a unique name and include a narrative section that identifies the primary objectives of the development as well as providing specific guidelines and design standards related to the development including but not limited to size, location and uses of buildings, bulk regulations, parking configurations and requirements, architectural standards, landscaping, open space design, signage design and location, pedestrian access, and utilities. In addition to the Development Plan, a Development Agreement shall be required of the developer, which shall acknowledge the developers commitment to develop the property in accordance with the Development Plan.

A. Master Plans shall be required for all new Planned Unit Developments in conformance with Chapter 171. Master Plans shall be submitted in conjunction with the petition for rezoning and shall be approved prior to the third reading of the ordinance rezoning the property to PUD.

B. For Planned Unit Developments approved prior to the adoption of the ordinance codified in this chapter, a Master Plan in conformance with Chapter 171 shall be required prior to platting or further development of any portion of the PUD-zoned land if an approved Master Plan is not on file with the City Clerk.

17. The following ordinances and resolutions have been adopted establishing Planned Unit Developments within the City:

A. Lakeview Acres Planned Unit Development.

(1) Ordinance 86-102, adopted June 9, 1986; voided August 28, 2006.

(2) Resolution 2006-73, approved August 28, 2006 (Lakeside Plat 3).

(3) Resolution 2019-20, approved March 25, 2019 (Bridgeview Plat 2).

B. Tournament Club of Iowa Planned Unit Development.

(1) Ordinance 2002-300, adopted March 11, 2002.

(2) Ordinance 2002-500, adopted October 14, 2002.

(3) Ordinance 2002-700, adopted November 11, 2002 (Wolf Creek TH).

(4) Ordinance 2012-800, adopted October 22, 2012 (Increase TCI PUD Area).

(5) Ordinance 2012-900, adopted October 22, 2012 (TCI Pod K).

(6) Resolution 2021-23, adopted March 22, 2021 (Ledgestone Ridge).

C. Deer Haven Planned Unit Development.

(1) Ordinance 2015-500, adopted July 13, 2015.

D. Crossroads Planned Unit Development.

(1) Ordinance 2016-1900, adopted July 13, 2016.

(2) Ordinance 2017-300, adopted March 13, 2017.

(3) Resolution 2017-18, approved March 13, 2017.

(4) Ordinance 2017-1100, adopted November 13, 2017.

(5) Resolution 2017-126, approved November 13, 2017.

E. Lakewoods Planned Unit Development.

(1) Ordinance 2016-2700, adopted December 12, 2016.

(2) Resolution 2016-13, approved December 12, 2016.

F. Stanley Estates Planned Unit Development.

(1) Ordinance 2020-1400, adopted August 24, 2020.

G. 117 E. Broadway Planned Unit Development (Simmer Plat 1)

(1) Ordinance 2021-1700, adopted June 14, 2021.

[The next page is 1301]

165.14 GOVERNMENT FACILITY DISTRICT REGULATIONS (GF). (Repealed by Ordinance No. 2023-8000 – Nov. 23 Supp.)

[The next page is 1307]

165.15 FLOODPLAIN OVERLAY DISTRICT REGULATIONS (FP). The regulations set forth in this section, or elsewhere in this chapter when applicable, shall apply in the FP, Floodplain Overlay District. The FP District is intended to identify the general location of areas within the floodway, floodplain and/or having Special Flood Hazards.

1. The City has adopted the regulations and flood maps of the Federal Emergency Management Agency (FEMA) in accordance with the *National Flood Insurance Act of 1968* and the *Flood Disaster Protection Act of 1973*. The floodplain regulations are stipulated in Chapter 160 (Floodplain Regulations) of this Code of Ordinances.

2. Additional regulations are imposed upon properties within the FP Floodplain overlay districts for the protection of life and property from losses and hazards caused by the occupancy and use of the floodplain by buildings, structures or activities that may increase the effects of flooding.

1. No structure or land shall be used and no structure or wastewater treatment facility (including septic systems) shall be located, extended, converted or structurally altered in any designated FP Floodplain Overlay District without full compliance with the terms of Chapter 160 (Floodplain Regulations), including but not limited to the requirement for a floodplain development permit.

2. If there are any discrepancies between the floodplain as may be depicted on the Official Zoning Map and the flood hazard areas as depicted on the Flood Insurance Rate Map, the Flood Insurance Rate Map shall govern.

3. All parcels and uses of property shall be in accordance with the district regulations of the underlying zoning district, except as limited by Chapter 160 (Floodplain Regulations).

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165.16 EXCEPTIONS AND MODIFICATIONS. The regulations specified in this chapter shall be subject to the following exceptions and interpretations:

1. Use of Existing Lots of Record. In any district where dwellings are permitted, a single-family detached dwelling may be located on any lot or plot of official record as of March 25, 1996, irrespective of its area or width; provided, however, in all districts other than the "R-1 Single-Family Detached Residential District", if two or more such lots or plots, or parts thereof with continuous frontage are combined into single ownership, such lots or plots or parts thereof shall be considered buildable only if they have a total combined minimum width of 50 feet. In the "R-1 Single-Family Detached Residential District", if two or more such lots or plots or parts thereof with continuous frontage are combined into single ownership, such lots or plots or parts thereof shall be considered buildable only if they have a total combined minimum width of 80 feet.

A. The sum of the side yard widths of any such lot or plot shall not be less than 30 percent of the width of the lot, but in no case less than 10 percent of the width of the lot for any one side yard.

B. The depth of the rear yard of any such lot need not exceed 20 percent of the depth of the lots, but in no case less than 10 feet.

2. Structures Permitted Above the Height Limit. The building height limitations of this chapter shall be modified as follows:

A. Chimneys, cooling towers, cell towers, small wind energy conversion systems, elevator bulk-heads, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with a special use permit subject to the provisions contained herein and elsewhere within this City Code and further provided that a fall zone setback equal to 150 percent of the total system height has been met unless said fall zone setback requirement has been waived by City Council.

B. Public, semi-public or public service buildings, hospitals, sanatoriums, schools, business colleges and related structures, churches and temples, when permitted in a district, may be erected to a height not exceeding 125 feet, if the building is set back from each property line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is located.

C. Single-family dwellings and two-family dwellings in the residence districts may be increased in height but not more than 10 feet when two side yards of not less than 15 feet each are provided, but they shall not exceed three stories in height. Single-family semi-detached dwellings in residence districts may be increased in height by not more than 10 feet when one side yard of not less than 15 feet is provided, but they shall not exceed three stories in height.

D. Notwithstanding the provisions of Section 165.10 and Section 165.11, principal buildings in any "C-2" or "M" zoning district may be erected to a height not exceeding 125 feet and the otherwise applicable maximum story limitation waived if the portion of the building in excess of one story in height is set back from the applicable front, side and rear yard at least three-fourths of one foot for each one foot of additional building height above the height limit otherwise provided for in the zoning district in which the building is located.

3. Exceptions to Yard Requirements.

A. Yards Adjacent to Alleys. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, one-half of the alley width may be included as a portion of the rear or side yard as the case may be.

B. Minor Obstructions. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard and except for ordinary projections as specified in Section 165.06. However, in a "C-2" Commercial District, an "M-1" Light Industrial District or and "M-2" Heavy Industrial District, one sidewalk arcade, canopy or similar architectural feature may be established and maintained in the front yard of an interior lot or in the front yard or street side yard of a corner lot; provided, the roof area occupied by such feature shall not exceed 600 square feet. In any "C-2", "M-1" or "M-2" District, one such feature, not to exceed 600 square feet of roof area, may be established and may be maintained in the front yard of any interior lot, and two such features, not to exceed 600 square feet of roof area each, may be established and may be maintained in the front yard or street side yard of a corner lot.

C. Atypical Setbacks. In residential areas where some lots are developed with a front yard that is less than the minimum required for the district by this chapter, or where some lots have been developed with a front yard greater than required by this chapter, the following rule shall apply. The front yard depth for a principal building (nursing and convalescent homes excluded) located on a lot within 250 feet of any portion of two or more lots in the same block occupied by dwellings that front on the same street as the proposed principal dwelling shall be the average front yard depth of such existing dwellings. The distance shall be measured along the street line from the nearest corner of the lot under consideration.

(1) Buildings located entirely on the rear half of a lot shall be counted.

(2) Buildings shall not be required to have a front yard greater than 50 feet or less than that required in the zoning district in which it is located.

(3) If no buildings exists on one side of a lot within 250 feet of the lot in question, the minimum front yard shall be the same as the building on the other side.

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165.17 OFF-STREET LOADING SPACES. In all districts except the "C-TS" Town Square Business District, in connection with every building or part thereof hereafter erected having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods, display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space for each 20,000 square feet, or major fraction thereof, of gross floor area so used in excess of 10,000 square feet.

1. Each loading space shall be not less than 10 feet in width and at least 25 feet in length.

2. Such space may occupy all or any part of any required yard or court space, except where adjoining an "R" District, it shall be set back five feet and an opaque screen of six feet in height shall be installed and shall be maintained along all "R" District boundaries. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. The screen shall be in line with the front of any adjoining residential structure in any adjoining 'R" District or the front of the proposed commercial structure, whichever is the lesser front yard setback. However, if the adjoining "R" District property is vacant, the front yard setback for the "R" District shall apply. A six-foot-high opaque screen shall not be required along adjoining streets or adjoining alleys. An opaque screen of three feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any "R" District. The opaque screen shall not extend closer than 25 feet to the front property line. An opaque screen of three feet shall be installed and maintained along each alley line where the premises is across from any "R" District. The opaque screen need not extend beyond the opaque screen installed along the street side lot line. Where there is a difference in elevation on opposite sides of the screen, the height shall consist of one or any combination of the following:

A. Wood or masonry walls or fences when constructed of materials which provide openings of less than 50 percent in area of the vertical surface of the wall or fence.

B. Berms constructed of earthen materials and landscaped.

C. Plant materials when used as a screen shall consist of compact evergreen plants. They shall be of a kind or used in such a manner so as to provide their screening function within 18 months after initial planting. The Zoning Enforcement Officer shall require that either A or B above shall be installed if, after 18 months after planting, plant materials have not formed an opaque screen or if an opaque screen is not maintained. A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials which provide openings of more than 50 percent in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.

D. When the finished elevation of the property is lower at the boundary line or within five feet inside the boundary line than an abutting property

elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.

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165.18 OFF-STREET PARKING AREA.

1. In all districts except the "C-TS" Town Square Business District in connection with every industrial commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons, or employees of the principal use served.

A. The presumptions established by this section are that: (i) a development must comply with the parking standards set forth in the parking table, and (ii) any development that does meet these standards is in compliance.

B. In determining the number of parking spaces required by the table of parking requirements, if a fractional space results, any fraction less than one-half may be disregarded while fractions in excess of one-half shall be counted as one parking space.

C. The Council recognizes that the table of parking requirements set forth in this section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Public Works Director is authorized to determine the parking requirements using this table as a guide. In accordance with the Comprehensive Plan, wherever possible parking will be established in the rear or side yard with the building orientation to the front sidewalk.

D. Table of Parking Requirements.

USE	PARKING REQUIREMENT
RESIDENTIAL:	
Single-family	2 spaces for each dwelling unit plus one space per room rented out, exclusive of garage
Two-family	2 spaces for each dwelling unit, exclusive of garage
Multi-family, One bedroom (townhomes & apartments)	1 space per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Multi-family, Two bedrooms or more (townhomes & apartments)	2 spaces per dwelling unit, exclusive of garage, plus 1 visitor space per 5 dwelling units
Independent Living Facilities	1 space per dwelling unit, a minimum of 50% of which shall be garage spaces, plus 1 space for every employee on maximum shift, plus 1 visitor parking space per 10 dwelling units ***(Ord. 2022-2600 – Feb. 23 Supp)***
Assisted Living Facilities	1 space for every two dwelling units, a minimum of 50% of which shall be garage spaces, plus 1 space for every employee on maximum shift, plus 1 visitor parking space per 10 dwelling units ***(Ord. 2022-2600 – Feb. 23 Supp.)***
MISCELLANEOUS ROOMS-FOR-RENT SITUATIONS:	
Homes emphasizing special services, treatment or supervision	3 spaces for every five beds except for uses exclusively serving children under 16, in which case 1 space for every 3 beds is required
Boarding houses	1 space for each bedroom
Hotels, motels and similar businesses or institutions providing over-night accommodations	1.25 spaces for each room to be rented plus additional space (in accordance with other sections of this table) for restaurant or other facilities
Home occupations	Demand established by particular home occupation authorized

USE	PARKING REQUIREMENT
SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT: (No storage or display of goods outside fully enclosed building.)	
Storage – miscellaneous	1 space per 200 square feet of gross floor area
Convenience store	1 space per 150 square feet of gross floor area
Low-volume traffic*	1 space per 400 square feet of gross floor area
Wholesale sales	1 space per 400 square feet of gross floor area
Storage and display of goods outside fully enclosed building:	
High-volume traffic generation*	1 space per 200 square feet of gross floor area
Low-volume traffic generation*	1 space per 400 square feet of gross floor area
Wholesale sales	1 space per 400 square feet of gross floor area
*As determined by the City Engineer and/or IDOT traffic studies or other acceptable evaluations and data.	
OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO GOODS OR MERCHANDISE: (All operations conducted within fully enclosed building.)	
Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, insurance agents, financial professionals and stockbrokers, travel agents, government offices, and similar professional offices ***(Ord. 2022-2600 – Feb. 23 Supp.)***	1 space per 200 square feet of gross floor area
Operations designed for little or no customer or client traffic other than employees of the entity operating the principal use	1 space per 400 square feet of gross floor area
Clinics of physicians, dentists or similar medical professionals with no more than 10,000 square feet of gross floor area ***(Ord. 2022-2600 – Feb. 23 Supp.)***	1 space per 150 square feet of gross floor area
Operations conducted within or outside fully enclosed building:	
Operations designed to attract and serve customers or clients on the premises	1 space per 200 square feet of gross floor area
Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use	1 space per 400 square feet of gross floor area
Banks with drive-up windows	1 space per 200 square feet of area within main building plus reservoir land capacity equal to 5 spaces per window (10 spaces if window serves two stations)
MANUFACTURING, PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLY OF GOODS, MERCHANDISE AND EQUIPMENT (All operations conducted entirely within a fully enclosed building.)	
Majority of dollar volume of business done with walk-in trade	1 space per 400 square feet of gross floor area
Majority of dollar volume of business not done with walk-in trade	1 space for every two employees on the maximum shift, except that if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area
Operations conducted within or outside fully enclosed building	1 space for every two employees on the maximum shift except that if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area

USE	PARKING REQUIREMENT
EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES:	
Elementary and secondary (including associated grounds and other facilities)	1.75 spaces per classroom in elementary schools, 10 spaces per classroom in high schools
Trade or vocation schools	1 space per 100 square feet of gross floor area
College, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)	1 space per 150 square feet of gross floor area
Churches, synagogues, temples	1 space for every 80 square feet of worship area plus one space for every two employees with sufficient space for safe and convenient loading and unloading
Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities)	1 space per 300 square feet of gross floor area
Social or fraternal clubs and lodges, assembly rooms, community rooms, union halls, and similar uses	1 space per 300 square feet of gross floor area
RECREATION, AMUSEMENT, ENTERTAINMENT: (Activity conducted entirely within building or substantial structure.)	
Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses	1 space for every three persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion; for example, tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation
Movie theaters	1 space for every four seats
Coliseums, stadiums, and all other facilities listed in the 6.100 classification designed to seat or accommodate simultaneously more than 1,000 people	1 space for every four seats
RECREATION, AMUSEMENT, ENTERTAINMENT: (Activity conducted primarily outside enclosed buildings or structures.)	
Privately owned recreational facilities such as golf and country clubs, swimming or tennis clubs, etc., not construction of some residential development	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that outdoor facilities are designed to accommodate when used to the maximum capacity
Publicly owned recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that outdoor facilities are designed to accommodate when used to the maximum capacity
Miniature golf course, skateboard park, water slide and similar	1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area
Drive Range	1 space per tee plus 1 space per 200 square feet of building gross floor area
Par Three Course	2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area
Horseback riding stables (not constructed pursuant to permit authorizing residential development)	1 space per horse that could be kept at the stable when occupied to maximum capacity
Automobile and motorcycle racing tracks	1 space for every three seats
Drive-in movie theaters	1 space per speaker outlet

USE	PARKING REQUIREMENT
INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES:	
Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater
Nursing care institutions, intermediate care institutions, transitional facilities for infirm persons, or facilities for persons with disabilities	1 space per employee on maximum shift, plus 1 visitor parking space per 10 beds ***(Ord. 2022-2600 – Feb. 23 Supp.)***
Institutions (other than halfway houses where mentally ill persons are confined)	1 space for every two employees on maximum shift
Penal and correctional facilities	1 space for every two employees on maximum shift
Memory care units in senior living facility	1 space for every employee on maximum shift, plus 1 visitor parking space per 10 dwelling units ***(Ord. 2022-2600 – Feb. 23 Supp.)***
RESTAURANTS, BARS, NIGHTCLUBS:	
No substantial carry-out or delivery service, no drive-in service, no service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area
No substantial carry-out or delivery service; no drive-in service, service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats
Carry-out and delivery service, no drive-in service, consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats
Carry-out and delivery service, drive-in service, service or consumption outside fully enclosed structure allowed	1 space per 100 square feet of gross floor area plus 1 space for every four outside seats plus reservoir lane capacity equal to 5 spaces per drive-in window
MOTOR VEHICLE RELATED SALES AND SERVICE OPERATIONS:	
Motor vehicle sales or rental; mobile homes sales	1 space per 200 square feet of gross floor area
Sales with installation of motor vehicle parts or accessories (e.g., tires, mufflers, etc.) fully enclosed structure allowed	1 space per 200 square feet of gross floor area
Motor vehicle repair and maintenance, not including substantial body work	1 space per 200 square feet of gross floor area
Motor vehicle painting and body work	1 space per 200 square feet of gross floor area
Gas sales and convenience stores	1 space per 150 square feet of gross floor area of building
Car Wash conveyor type	1 space for every three employees on the maximum shift plus reservoir capacity equal to 5 times the capacity of the washing operation
Car Wash self-service type	2 spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall
STORAGE AND PARKING: (Storage of goods not related to sale or use of those goods on the same lot where they are stored)	
All storage within completely enclosed structures	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside)
Storage inside or outside completely enclosed structures	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside)

USE	PARKING REQUIREMENT
OTHER:	
Scrap materials, salvage yards, junk yard, automobile graveyards	1 space per 200 square feet of gross floor area
Service and enterprises related to animals	1 space per 200 square feet of gross floor area
Emergency services	1 space per 200 square feet of gross floor area
Agricultural, silvicultural, mining, quarry operations	1 space per 2 employees on maximum shift
Miscellaneous public and semi-public facilities:	
Airport	1 space per 200 square feet of gross floor area
Sanitary landfill	1 space for every two employees on maximum shift
Dry cleaner, Laundromat	1 space per 200 square feet of gross floor area
Open air markets and horticultural sales	1 space per 1,000 square feet of lot area used for storage, display or sales
Funeral Home	1 space per 100 square feet of gross floor area
Cemetery	No requirement
Nursery schools; day care centers	1 space per employee plus 1 space per 300 square feet of gross floor area plus 1 space per 5,000 square feet of gross floor area
Bus station, train station	1 space per 200 square feet of gross floor area
Commercial greenhouse operations area	1 space per 200 square feet of gross floor area

2. In case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned, and to which said use is similar, shall apply.

3. Where a parking lot does not abut on a public or private alley or easement of access, there shall be provided an access drive not less than eight feet in width in case of a dwelling and not less than 16 feet in width in all other cases leading to the loading or unloading spaces and to secure the most appropriate development of the property in question, provided however, such easement of access or access drive shall not be located in any residence district, except where serving a permitted use in a residence district.

4. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

A. No part of any parking space shall be closer than ten feet to any established public street right-of-way or five feet to any established alley line. In the case the parking area adjoins an "R" District, it shall be set back at least five feet from the "R" District boundary and an opaque screen of six feet in height shall be installed and shall be maintained along all "R" District boundaries. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. The screen shall be in line with the front of any adjoining "R" District or the front of the proposed commercial structure, whichever is the lesser front yard setback. However, if the adjoining "R" District property is vacant, the front yard setback for the "R" District shall apply. A six-foot-high opaque screen shall not be required along streets or along alleys. An opaque screen of three feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any "R" District. The opaque screen shall not extend closer than 25 feet to the front property line. An opaque screen of three feet shall be installed and maintained along each alley line where the premises is across from any "R"

District. The opaque screen need not extend beyond the opaque screen installed along the street side lot line. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. An opaque screen shall consist of one, or any combination of, the following: ***(Ord. 2022-2600 – Feb. 23 Supp.)***

(1) Wood or masonry walls or fences when constructed of materials which provide openings of less than 50 percent in area of the vertical surface of the wall or fence.

(2) Berms constructed of earthen materials and landscaped.

(3) Plant materials when used as a screen shall consist of compact evergreen plants that meet the approval of Section 165.19, Landscape, Planting and Screening and SUDAS, Chapter 12, Section 5. They shall be of a kind or used in such a manner so as to provide their screening function within 18 months after initial planting. The Zoning Enforcement Officer shall require that either (1) or (2) above be installed if, after 18 months after planting, plant materials have not formed an opaque screen or if an opaque screen is not maintained. A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials which provide openings of more than 50 percent in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.

(4) When the finished elevation of the property is lower at the boundary line or within five feet inside the boundary line than an abutting property elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.

B. In all zoning districts, all off-street parking areas and driveways shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the City Engineer and the Building Inspector so as to provide a durable and dustless surface, shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of self-propelled vehicles. Such surfacing shall be required to be installed at the time of site improvement construction in conjunction with Site Plan approval when such approval is required and issuance of building permits and shall be considered a required improvement to be installed prior to issuance of occupancy permits; provided however, the Council may, in its discretion, by resolution, authorize an extension of time for the installation of the required surfacing and allow issuance of the occupancy permit prior to installation of the required surfacing. The Council may consider an extension of time only if a petition signed by the owner or duly authorized representative requesting a time extension including a statement of reasons therefor, is presented to the Council. The length of time granted for the extension shall be determined and at the discretion of the Council, but in no event longer than three years. Should a time extension be granted by resolution of the Council, the owner shall provide to the City a performance bond in the form as prescribed by the Subdivision Regulations, Chapter 170 of this Code

of Ordinances, and in the amount recommended by the City Engineer and approved by the Council and for the duration of the time stipulated in such grant. The Council may, in its discretion, by resolution rescind the granted extension of time by reason of such facility becoming a nuisance to surrounding property owners. In such instance, the required surfacing shall be installed by the owner within six months from the date of such resolution or the performance bond concerning surfacing shall be forfeited and the surfacing installed by order of the City.

C. Vehicles, recreational vehicles, boats, all-terrain vehicles (ATVs) or snowmobiles shall not be parked or stored within the front yard or street side yard of a residential lot in any zoning district unless situated on a paved driveway or parking lot. In the case of an existing residential driveway that was unpaved at the time of the passage of the ordinance codified in this chapter; vehicles, recreational vehicles, boats, ATVs and snowmobiles shall be permitted to be parked or stored on such unpaved driveway until such time as site improvements are made which require the driveway to be paved. Recreational vehicles, boats, ATVs, and snowmobiles may be parked or stored within the interior side yard or rear yard of a residential lot if contained within an enclosed fence, or within an enclosed garage. Recreational 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.

D. Any lighting used to illuminate any off-street parking area including any commercial parking lots shall be so arranged as to reflect the light away from adjoining premises in any "R" District. Such lighting shall be downcast lighting with a maximum of one foot-candle at the property line.

5. Off-street parking areas shall be provided on the same lot with the principal use, except as provided in Subsection 6 below.

6. Subject to the requirements herein, off-street parking areas may be established in any "R" District that immediately adjoins a "C" or "M" District, or is directly across an alley from a "C" or "M" District, provided that:

A. Such parking shall be accessory to and for use of one or more permitted uses in the adjoining "C" or "M" District and shall not include trucks.

B. Such parking areas shall not extend more than 100 feet from the boundary of the less restricted district. In no case shall said areas extend closer than 10 feet to the street right-of-way line. The yard between said parking areas and the adjoining streets shall be screen planted and landscaped as provided in C below.

C. A 10-foot yard shall be maintained between said parking area and adjoining lots in an "R" District. In addition, except at designated access points, wheel barriers shall be installed along the outside boundaries of any parking area. The wheel barriers shall be installed in such a manner as to prevent a parked vehicle from encroaching into any required setback. An opaque screen at least six feet in height shall be maintained along all "R" District boundaries. The screen shall be in line with the front of any adjoining residential structure in any adjoining "R" District or the front of the proposed commercial structure, whichever is the lesser front yard setback. However, if the adjoining "R" District property is vacant, the front yard setback for the "R" District shall

apply. A six-foot-high opaque screen shall not be required along adjoining streets or adjoining alleys. An opaque screen of three feet shall be installed and maintained along each street side lot line of a corner lot where the premises is across from any "R" District. The opaque screen shall not extend closer than 25 feet to the front property line. An opaque screen of three feet shall be installed and maintained along each alley line where the premises is across from any "R" District. The opaque screen need not extend beyond the opaque screen installed along the street sides of the screen; the height shall be measured from the highest elevation. An opaque screen shall consist of one or any combination of the following:

(1) Wood or masonry walls or fences when constructed of materials which provide openings of less than 50 percent in area of the vertical surface of the wall or fence.

(2) Berms constructed of earthen materials and landscaped.

(3) Plant materials when used as a screen shall consist of compact evergreen plants. They shall be of a variety or used in such a manner so as to provide adequate screening function. A wall or fence may be combined with the plant materials. However, if such a wall or fence is constructed of materials which provide openings of more than 50 percent in area of the vertical surface of the wall or fence, it shall not be considered a part of the opaque screen and it shall be located on the parking area side of the plant materials.

(4) When the finished elevation of the property is lower at the boundary line or within five feet inside the boundary line than an abutting property elevation, such change in elevation may be used in lieu of or in combination with additional screening to satisfy the screening requirements for this district.

D. All entrances and exits for said parking areas shall be from said adjoining alley for "C" or "M" District.

E. No such parking area shall be located in any required front yard in a residence district or project in front of the immediately adjoining permitted principal structures.

7. Parking spaces required by Subsections 1 and 2 hereof shall be provided in accordance with SUDAS, Chapter 12, Section 3.

8. Parking spaces required by Subsections 1 and 2 hereof shall not be located within any shared or common driveway or ingress/egress easement.

9. Flexibility in Administration.

A. The Council recognizes that, due to particularities of any given development, the inflexible application of the parking standards set forth in Subsection 1(D) of this section may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the City Manager may permit deviations from the presumptive requirements of

Paragraph D and may require more parking or allow less parking whenever such deviations are more likely to satisfy the standard set forth herein.

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165.19 LANDSCAPE, PLANTING, AND SCREENING.

1. Open Space Planting. Whenever property is required to include open space pursuant to the provisions of Section 165.06, such open space shall be unencumbered by any structure or off-street parking area. Such open space, except for the portion used as pedestrian walks or courts, shall be landscaped and maintained with grass or other acceptable ground cover and shall include trees and shrubs in the proportions hereinafter set forth. Trees and shrubbery shall be provided at a minimum ratio of two trees and six shrubs per 3,000 square feet of required open space; provided, however, there shall be a minimum requirement of two trees and six shrubs. Required plantings shall be installed prior to issuance of an occupancy permit. The required number of trees and shrubs shall be determined as follows:

A. 3,000 square feet or less of open space = two trees, six shrubs

B. More than 3,000 square feet of open space:

(1) Trees: (square feet of open space divided by 3,000) x 2 = No. of trees required

(2) Shrubs: (square feet of open space divided by 3,000) x 6 = No. of shrubs required

1. The plantings required hereunder are in addition to and not in substitution of any planting requirements otherwise set forth in this Code of Ordinances. Existing trees and shrubs on site and retained as part of the development may be used to meet the requirements of this section.

2. Parking Area Landscaping. Parking areas required in R-3, R-4, C-1, C-2, C-3, C-4, M-1, and M-2 zoning districts shall provide areas of natural shading, accomplished through the planting of trees, in an amount equal to 20 percent of the total square feet of drives and parking (Vehicle Pavement Area). Trees used for this purpose shall be presumed to shade a circular area having 700 square feet. New trees planted to meet the requirements of this section shall be located so that each is surrounded by at least 190 square feet of unpaved area. New and existing trees shall be protected from damage by vehicles and shall be promptly replaced if destroyed. Plantings required hereunder shall be installed prior to the issuance of an occupancy permit for the site. The number of trees required hereunder shall be determined as follows:

A. Vehicle Pavement Area x 20 percent = Plant Square Footage

B. Plant Square Footage divided by 700 = No. of trees required.

1. The plantings required under this section are in addition to and not in substitution of any open space or parking lot plantings or screening otherwise required under this Code of Ordinances. Existing trees on a site which are retained as a part of development, and which provide shade to parking areas may be used to meet the requirements of this section.

3. Approved Trees. Any trees planted to meet the requirements of this chapter shall be trees of a type included on the approved tree list of the City as determined by the Tree Board.

4. Screens. The intent of the screening regulations hereinafter set forth is to lessen the transmission from one property to another of noise, dust and glare; to lessen visual pollution by creating the impression of separation of spaces or entirely shielding one

land use from another; and/or establishing a sense of privacy from visual or physical intrusion. The Council specifically finds that the provisions of this chapter are necessary to safeguard the public health, safety and welfare.

A. General Screening Standard. Every development shall provide sufficient screening so that neighboring properties are shielded from any adverse external effects of that development; and the development is shielded from the negative impacts of adjacent uses including streets and railroads.

B. Compliance with General Standard. The following "Table of Screening Requirements" (the "Table"), in conjunction with the explanations set forth in Subsection 4D concerning types of screens, establishes screening requirements that presumptively satisfy the general standard established in Subsection 4A.

C. "Burdened Zoning District" means the zoning classification of the property on which screening must be installed. "Benefited Zoning Classification/Use" means the zoning classification of the property which is benefited or protected by the required screening. The letter designations "A", "B" and "C" refer to types of screening required and which are described and defined in Subsection 4D. The designation "–" means there are no presumptively required screening requirements for abutting properties to which such designation applies under the Table. Where screening is required under the Table, the owner of the property in the burdened district is responsible for the installation of the required screening prior to issuance of an occupancy permit. The burdened zoning district shall be interpreted to mean the zoning district permitting more intensive uses unless otherwise determined by City Council upon recommendation of the Planning and Zoning Commission.

TABLE OF SCREENING REQUIREMENTS

	BENEFITED ZONING DISTRICT								
Burdened Zoning District	R-1 R-1A	R-2 R-2A	R-3	R-4	C-1 C-4	C-2 C-3	M-1 M-2	PUD	GF-1
R-1 & R-1A	–	–	A	A	B	B	C	*	–
R-2 & R-2A	–	–	A	A	B	B	C	*	–
R-3	A	A	–	–	B	B	C	*	–
R-4	A	A	–	–	A	B	C	*	–
C-1, C-4	B	B	A	A	-	A	C	*	–
C-2, C-3	B	B	B	B	A	–	C	*	–
M-1, M-2	C	C	C	C	C	C	–	*	–
PUD	*	*	*	*	*	*	*	*	–
GF-1	–	–	–	–	–	–	–	–	–

Notes:
1. Screening and Buffer Easements in PUD Districts to be approved by City Council with Master Plan.
2. Additional screening and Buffer Easements for M-2 uses may be required by City Council with Site Plan
3. Where the burdened property lies adjacent to the corporate limits at the time of development, buffer requirements shall be based upon the Future Land Use of the benefited parcel as designated by the City Comprehensive Plan.
4. Where the burdened property lies adjacent to an A-1 zoning district at the time of development, buffer requirements shall be based upon the Future Land Use of the benefited parcel as designated by the City Comprehensive Plan.

(Paragraph C – Ord. 2023-8000 – Nov. 23 Supp.)

D. Description of Screens. The following three basic types of screens are hereby established and are designated "A", "B" and "C" (corresponding to the designations included in the Table):

(1) Broken screen, type "A", means a screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. A type "A" screen shall be located within a buffer easement of sufficient width to accommodate the required broken screen as shown on an approved Site Plan, but in no case shall it be less than 20 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

(2) Semi-opaque screen, Type "B", means a screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or nature vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than 10 feet wide. The zone of intermittent visual obstruction may contain deciduous plants. A type "B" screen shall be located within a buffer easement of sufficient width to accommodate the required semi-opaque screen as shown on an approved Site Plan, but in no case shall it be less than 30 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

(3) Opaque screen, Type "C", means a screen that is opaque from the ground to a height of a least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance by use of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any

completely unobstructed openings more than 10 feet wide. The portion of intermittent visual obstructions may contain deciduous plants. A type "C" screen shall be located within a buffer easement of sufficient width to accommodate the required opaque screen as shown on an approved Site Plan, but in no case shall it be less than 50 feet wide unless specifically waived by Council on an approved Site Plan. Said easement will be exclusive of parking areas and accessory structures except approved fences or walls.

E. Where commercial and/or industrial uses abut residential uses, the developer of the commercial and/or industrial property shall construct all required screens adjacent to said residential properties as part of the initial phase of development of their property.

5. Buffer Easements Adjacent to U.S. Army Corps of Engineers Land. Parcels of land being developed that abut land owned by the United States of America shall provide a 35 feet wide buffer easement across the developer's property adjacent to said public lands prior to approval of a Final Plat or Site Plan for the developer's property. The buffer easement shall prohibit construction of principal or accessory structures within said easement, except approved fences or walls. The buffer easement shall also restrict construction of streets within said easement except where it is deemed necessary to cross said easement to maintain continuity of the street system. The buffer easement shall not restrict construction of trails.

6. Storage Areas. The outdoor storage of materials, equipment or supplies, when permitted in any commercial or industrial district, shall be located or screened, fenced or landscaped so as to effectively prevent visibility of such storage from all abutting residential zoning districts or abutting existing residential uses. Such screening shall be sufficient if it prevents visibility of such storage area by persons traveling on public rights-of-way or standing at level on the side or rear lot lines of such property. Such screening shall comply with the standard for an opaque screen Type C.

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165.20 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.

1. Purpose. The purpose of this section is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this section are to:

A. Protect residential areas and land uses from potential adverse impacts of towers and antenna;

B. Encourage the location of towers in non-residential areas;

C. Minimize the total number of towers throughout the community;

D. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

E. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

F. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

G. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

H. Consider the public health and safety of communication towers; and

I. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City shall give due consideration to the City's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

2. Definitions. As used in this section, the following terms shall have the meanings set forth below:

A. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

B. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

C. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

D. "FAA" means the Federal Aviation Administration.

E. "FCC" means the Federal Communications Commission.

F. "Height" means, when referring to a tower or other structure, the distance measure from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

G. "Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the ordinance codified in this chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

H. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

3. Applicability.

A. New Towers and Antennas. All new towers or antennas in the City shall be subject to these regulations, except as provided in Subsections B through D, inclusive.

B. Amateur Radio Station Operators/Receive-Only Antennas. This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federal-licensed amateur radio station operator or is used exclusively for receive only antennas.

C. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of Subsections 4(F) and 4(G).

D. AM Array. For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

4. General Requirements.

A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Enforcement Officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Enforcement Officer may share such information with other applicants applying for administrative approvals or special use permits under this chapter

or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however, that the Zoning Enforcement Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics. Towers and antennas shall meet the following requirements:

(1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

(2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(4) The alternative tower structure will be given preference for approval over a typical tower.

E. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

F. State and Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and County jurisdictional boundaries.

I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all required franchises with the Zoning Enforcement Officer.

K. Public Notice. For purposes of this section, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2 of Subsection 7, in addition to any notice otherwise required by this chapter.

L. Signs. No signs shall be allowed on an antenna or tower.

M. Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Subsection 8.

N. Multiple Antenna/Tower Plan. The City encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

5. Permitted Uses.

A. General. The uses listed in this subsection are deemed to be permitted uses and shall not require administrative approval or a special use permit.

B. Permitted Uses. The following uses are specifically permitted:

(1) Antennas or towers located on property owned, leased, or otherwise controlled by the City provided a license or lease authorizing such antenna or tower has been approved by the City.

6. Administratively Approved Uses.

A. General. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

(1) The Zoning Enforcement Officer and City Engineer must approve the uses listed in this subsection.

(2) Each applicant for administrative approval shall apply to the Zoning Enforcement Officer providing the information set forth in Subsections 7(B)(1) and 7(B)(3) of this section and a nonrefundable fee as established by resolution of the Council to reimburse the City for the costs of reviewing the application.

(3) The Zoning Enforcement Officer and City Engineer shall review the application for administrative and technical approval and

determine if the proposed use complies with Subsections 4, 7(B)(4), and 7(B)(5) of this section. Applicant will pay all fees associated with the review process.

(4) The Zoning Enforcement Officer shall respond to each such application within 60 days after receiving it by either approving or denying the application.

(5) In connection with any such administrative approval, the Zoning Enforcement Officer may, in order to encourage shared use, administratively waive any zoning district setback requirements in Subsection 7(B)(4) or separation distances between towers in Subsection 7(B)(5) by up to 50 percent.

(6) In connection with any such administrative approval, the Zoning Enforcement Officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

(7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Subsection 7 prior to filing any appeal that may be available under this chapter.

B. List of Administratively Approved Uses. The following uses may be approved by the Zoning Enforcement Officer after conducting an administrative review:

(1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zoning district.

(2) Locating antennas on existing structures or towers consistent with the terms of Subsections (a) and (b) below.

a. Antennas On Existing Structures. Any antenna which is not attached to a tower may be approved by the Zoning Enforcement Officer as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided;

(i) The antenna does not extend more than 30 feet above the highest point of the structure;

(ii) The antenna complies with all applicable FCC and FAA regulations; and

(iii) The antenna complies with all applicable building codes.

b. Antennas On Existing Towers. An antenna which is attached to an existing tower may be approved by the Zoning Enforcement Officer and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new

towers, provided such collocation is accomplished in a manner consistent with the following:

(i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Enforcement Officer allows reconstruction as a monopole.

(ii) Height.

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(b) The height change referred to in Subsection (iii) (a) may only occur one time per communication tower.

(c) The additional height referred to in Subsection (iii) (a) shall not require an additional distance separation as set forth in Subsection 7. The tower's premodification height shall be used to calculate such distance separations.

(iii) Onsite Location.

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Subsection 7(B)(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of Subsection 7(B)(5).

(d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Subsection 7(B)(5) shall only be permitted when approved by the Zoning Enforcement Officer.

(3) New Towers In Non-Residential Zoning Districts. Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided a licensed professional engineer

certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Enforcement Officer concludes the tower is in conformity with the goals set forth in Subsection 1 and the requirements of Subsection 4; the tower meets the setback requirements in Subsection 7(B)(4) and separation distances in Subsection 7(B)(5); and the tower meets the following height and usage criteria:

a. For a single user, up to 90 feet in height;

b. For two users, up to 120 feet in height; and

c. For three or more users, up to 150 feet in height.

d. Notwithstanding anything contained elsewhere in this section, a tower of up to 270 feet in height may be approved by the Council upon a showing that the tower will be used for at least three users and that the site best addresses the needs and concerns of the City.

(4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that, in the judgment of the Zoning Enforcement Officer, is in conformity with the goals set forth in Subsection 1.

(5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

7. Special Use Permits.

A. The following provisions shall govern the issuance of special use permits for towers or antennas by the Board of Adjustment:

(1) If the tower or antenna is not a permitted use under Subsection 5 of this section or is not approved administratively pursuant to Subsection 6 of this section, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

(2) Applications for special use permits under this subsection shall be subject to the procedures and requirements of Section 165.21 of this chapter, except as modified in this Subsection.

(3) In granting a special use permit, the Board of Adjustment may impose conditions to the extent the Board of Adjustment concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

(4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer and also reviewed by the City Engineer.

(5) An applicant for a special use permit shall submit the information described in this subsection and a non-refundable fee as established by resolution of the Council to reimburse the City for the costs of reviewing the application.

B. Towers.

(1) Information Required. In addition to any information required for applications for special use permits pursuant to Section 165.21 of this chapter, applicants for a special use permit for a tower shall submit the following information:

a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in Subsection 7(B)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Enforcement Officer to be necessary to assess compliance with this section.

b. Legal description of the parent tract and leased parcel (if applicable).

c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Subsection 4(C) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing towers and the owner/operator of the existing towers, if known.

e. A landscape plan showing specific landscape materials.

f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

g. A description of compliance with Subsections 4(C), (D), (E), (F), (G), (J), (L), and (M), 7(B)(4), 7(B)(5), and all applicable federal, State, or local laws.

h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

i. Identification of the entities providing the backhaul network for the towers described in the application and other cellular sites owned or operated by the applicant in the City.

j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible locations of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(2) Factors Considered In Granting Special Use Permits For Towers. In addition to any standards for consideration of special use permit applications pursuant to Section 165.21 of this chapter, the Board of Adjustment shall consider the following factors in determining whether to issue a special use permit, although the Board of Adjustment may waive or reduce the burden on the applicant of one or more of these criteria if the Board of Adjustment concludes that the goals of this section are better served thereby;

a. Height of the proposed tower;

b. Proximity of the tower to residential structures and residential district boundaries;

c. Nature of uses on adjacent and nearby properties;

d. Surrounding topography;

e. Surrounding tree coverage and foliage;

f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

g. Proposed ingress and egress; and

h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Subsection 7 (B) (3) of this section.

(3) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Adjustment that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Board of Adjustment related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Board of Adjustment may reduce the standard setback requirements if the goals of this subsection would be better served thereby:

a. Towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.

b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(5) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Board of Adjustment may reduce the standard separation requirements if the goals of this section would be better served thereby.

a. Separation From Off-Site Uses/Designated Areas.

(i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

(ii) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:	
Off-Site Use/Designated Area Separation Distance	
Single-family or duplex residential units[1]	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower[2] whichever is greater
Vacant unplatted residentially zoned lands[3]	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply
[1] Includes modular homes and mobile homes used for living purposes. [2] Separation measured from base of tower to closet building setback line. [3] Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.	

b. Separation Distances Between Towers.

(i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2				
Existing Towers – Types				
	Lattice	**Guyed**	**Monopole 75 Ft in Height or Greater**	**Monopole Less Than 75 Ft in Height**
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

(6) Security Fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Board of Adjustment may waive such requirements, as it deems appropriate.

(7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Board of Adjustment may waive such requirements if the goals of this section would be better served thereby.

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extents possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

8. Buildings or Other Equipment Storage.

A. Antennas Mounted on Structures or Rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:

(1) The cabinet or structure shall not contain more than 320 square feet of gross floor area or be more than eight feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 320 square feet of gross floor area or eight feet in height, shall be located on the ground and shall not be located on the roof of the structure.

(2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10 percent of the roof area.

(3) Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

(1) In residential districts, the equipment cabinet or structure may be located:

a. In a front or side yard provided the cabinet or structure is no greater than 320 feet in height or eight square feet of gross floor area and the cabinet/structure is located in compliance with the setback requirements from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.

b. In a rear yard, provided the cabinet or structure is no greater than eight feet in height or 320 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

(2) In commercial or industrial districts, the equipment cabinet or structure shall be no greater than eight feet in height or 320 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid

fence eight feet in height or an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

C. Antennas Located on Towers. The related unmanned equipment structure shall not contain more than 320 square feet of gross floor area or be more than eight feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

D. Modification of Building Size Requirements. The requirements of this subsection may be modified by the Zoning Enforcement Officer in the case of administratively approved uses or by the Board of Adjustment in the case of uses permitted by special use to encourage collocation.

9. Removal of Abandoned Antennas and Towers.

A. Any antenna or tower that is not operated for a continuous period of six months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 60 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 60 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

B. A written agreement signed by the communication facility owner and property owner to remove the tower, foundation and any other accessory equipment within 60 days after abandonment. As used herein, the term "abandonment" shall mean a communication tower that is not used for its intended and approved purpose for more than 180 days.

10. Nonconforming Uses.

A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.

C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Subsection 9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in Subsections 7(B)(4) and 7(B)(5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Subsection 9.

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165.21 SPECIAL PERMITS. The Board of Adjustment may by special permit, after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this chapter.

1. Any public building erected and used by any department of the City, Township, County, State or federal government.

2. Airport or landing field.

3. Community building or recreation field.

4. Hospitals, nonprofit fraternal institutions (provided they are used solely for fraternal purposes), and institutions of an educational, religious, philanthropic or eleemosynary character.

5. Preschools.

6. Public cemetery.

7. Private golf courses, country clubs, and tennis or swimming clubs.

8. Bus terminals.

9. Pet cemeteries.

10. Telecommunications towers and antennas.

11. Home occupations.

Before issuing any special permit for any of the above buildings or uses, the Board of Adjustment shall review the conformity of the proposed building or use with the standards of the existing Comprehensive Plan, as amended, and with recognized principles of civic design, land use planning, and landscape architecture. The Board of Adjustment may approve the special permit as submitted or, before approval, may require that the applicant modify, alter, adjust or amend the proposal as the Board of Adjustment deems necessary to the end that it preserve the intent and purpose of this chapter to promote public health, safety, morals and the general welfare. Applications for a special permit under the terms of this chapter shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings, the areas to be developed for parking, the locations of sidewalks and driveways and the points of ingress and egress, including access streets, where required, the location and heights of walls, the location and type of landscaping and the location, size and number of signs. In the event a special permit is granted under the terms of this chapter, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.

165.22 ADMINISTRATION WAIVER. This section applies only to Master Plans required herein in conformance with Chapter 171 of this Code and Site Plans required herein in conformance with Chapter 157 of this Code. All major changes to a master plan or to a site plan shall be made in accordance with the procedures in effect at the time of the initial approval. Major changes shall be deemed to be any change not hereinafter listed as a minor change. Minor changes, as hereinafter listed, shall not be made unless the prior approval for such change is obtained from the City Engineer. Such approval shall be in writing and shall be signed by the City Manager. Upon application, to make a minor change and upon verification that the

following conditions have been met, it shall be the duty of the City Engineer to grant approval to such minor change. Minor changes are deemed to include the following:

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved buildings. Relocation of building entrances or exits; shortening of building canopies.

2. Changing to a more restrictive use provided there is no reduction in the amount of off-street parking as originally approved.

3. Changing angle of parking or aisle width in accordance with code provisions provided there is no reduction in the amount of off-street parking as originally approved.

4. Moving of ingress and egress drives a distance not more than 100 feet if required for traffic regulation.

5. Substitute plant species provided a licensed landscape architect, engineer or architect certifies the substituted special is similar in nature.

6. Increase quantities of plant materials or size of landscaped areas.

7. Change type and design of lighting fixtures provided a licensed engineer or architect certifies there will be no change in the intensity of light.

8. Increase peripheral yards.

9. Increase building, if no significant increase to drainage or open space requirements.

165.23 BOARD OF ADJUSTMENT.

1. Board Established. A Board of Adjustment is established which shall consist of five members. The terms of office of the members of the Board of Adjustment shall be for terms of five years of each. The terms of office of the members of the Board of Adjustment shall be for five years on a staggered basis, and their appointment shall be made by the Mayor, with the approval of the Council. Any member of the Board who shall thereafter be absent from three meetings of the Board during any one calendar year, without good cause, shall be deemed to have vacated such office on the occasion of such third absence. The Chairperson shall immediately report such vacancy to the Mayor, who shall, with the approval of the Council, fill such vacancy for the unexpired term. The Board shall not carry on its business without having at least three members present. A majority of the members of the Board of Adjustment should not be involved in the business of purchasing or selling real estate.

2. Meetings. The meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in the absence of the Chairperson, the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or, if a member is absent or fails to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of three members shall be necessary to constitute a quorum.

3. Appeal Procedure.

A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected

by any decision of the Zoning Enforcement Officer. Such appeal shall be taken within 10 days by filing with the City Clerk a Notice of Appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer certifies to the Board, after Notice of Appeal has been filed with the City Clerk, that by reason of the facts stated in the certificate, a stay would, in the opinion of the Zoning Enforcement Officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the City Clerk and the Zoning Enforcement Officer and on due cause shown.

B. The Board shall fix a reasonable time for the hearing on the appeal, shall give public notice thereof as well as due notice to the parties in interest, and shall decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee in an amount established from time to time by resolution of the City Council.

4. Powers and Duties. The Board of Adjustment shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, rescission or determination made by the Zoning Enforcement Officer in enforcement of this chapter.

B. To grant a variation in the regulations when a property owner can show that his property was acquired in good faith; that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of this chapter actually prohibits the use of this property in the district, and that the Board is satisfied under the evidence before it that a literal enforcement of the provisions of this chapter would result in unnecessary hardship; provided however, all variations granted under this clause shall be in harmony with the intended spirit and purpose of this chapter. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation and punishable under provisions of this Code. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by its terms in said district.

C. To permit the following exceptions to the district regulations set forth in this chapter, provided that all exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire or endanger the public

safety, and shall not diminish or impair established property values in surrounding areas:

(1) To permit erections and use of a building or the use of premises, or vary the height, yard or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, including the distribution of newspapers, which the Board determines is reasonably necessary for the public convenience or welfare;

(2) To permit the use of property in residential districts for off-street parking purposes as accessory to permitted residential district uses where said parking lots do not immediately adjoin the permitted residential district use;

(3) To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown on record or by existing contract or purchase at the time of the passage of the ordinance codified in this chapter, but in no case shall such extension of the district boundary line exceed 40 feet in any direction.

D. In no instance may the Board of Adjustment grant a variance to any provisions of the adopted Building Codes.

5. Decisions.

A. In exercising the powers and duties set forth in Subsection 4, the Board of Adjustment may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as it believes proper. To that end it shall have all the powers of the Zoning Enforcement Officer. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution immediately following the Board's final decision shall be filed in the office of the Board and shall be open to public inspection.

B. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.

C. Any taxpayer, or any officer, department, board or bureau of the City, or any person or persons jointly or severally aggrieved by any decision of the Board, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

D. The Board of Adjustment shall be permitted to approve, approve with conditions or deny a request for a variance. Each request for a variance shall be consistent with the following criteria:

(1) Limitations on the use of the property due to physical, topographical and geologic features.

(2) The grant of the variance will not grant any special privilege to the property owner.

(3) The applicant can demonstrate that without a variance there can be no reasonable use of the property.

(4) The grant of the variance is not based solely on economic reasons.

(5) The necessity for the variance was not created by the property owner, including a certification that the variance is not being requested due to the property owner having installed an improvement in violation of Polk City Code. ***(Ord. 2023-9200 – Nov. 23 Supp.)***

(6) The variance requested is the minimum variance necessary to allow reasonable use of the property.

(7) The grant of the variance will not be injurious to the public health, safety or welfare.

(8) The property subject to the variance request possesses one or more unique characteristics generally not applicable to similarly situated properties.

165.24 OCCUPANCY PERMITS. No land shall be occupied or used and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the Zoning Enforcement Officer, stating that the building and use comply with the provisions of this chapter and the building and health provisions of the Code. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefor by the Zoning Enforcement Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this chapter. Prior to the issuance of a Certificate of Occupancy and Compliance, the applicant shall pay to the City Treasurer an appropriate sum as established from time to time by resolution of the City Council.

Where applicable, such sums shall be paid to the City Treasurer upon application for a building permit. Nothing in this part shall prevent the continuance of a nonconforming use as heretofore authorized, unless a discontinuance is necessary for the safety of life or property. Certificates of Occupancy and Compliance shall be applied for coincidentally with the application for a building permit and shall be issued within 10 days after the lawful erection or alteration of the building is completed. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made for Certificate of Occupancy and Compliance, and no building or premises shall be occupied until that certificate and permit is issued.

165.25 PLATS. Each application for a building permit shall be accompanied by a site sketch in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected (including driveway collection), and such other information as may be necessary to provide for the enforcement of this chapter. A record of applications and site sketches shall be kept in the office of the Zoning Enforcement Officer.

165.26 AMENDMENTS.

1. The Council may, from time to time, on its own action or on petition after report by the Commission, amend, supplement, or change the boundaries or regulations herein or subsequently established. However, no such amendment, supplement, restriction, change of boundaries, or regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published as provided in Section 362.3 of the *Code of Iowa*, except that at least seven-days' notice must be given and in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. The notice shall be published in a paper of general circulation in the City. Such amendment, supplement, or change shall not become effective except by a favorable vote of a majority of all of the members of the Council.

2. Whenever any person desires that any amendment or change be made in this Zoning Code, including the text and/or map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of 50 percent of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of 50 percent of the area of all real estate lying outside of said tract but within 250 feet of the boundaries thereof, it shall be the duty of the Council to vote upon such petition within a reasonable time after the filing of such petition with the Clerk.

3. Where the person desires map to be amended to include the rezoning of property to the Planned Unit Development (PUD) District only, the petition must be duly signed by 100 percent of the area of all real estate included within the boundaries of said tract as described in said petition. Where a person desires to rezone a tract of land to PUD only, the requirement for said petition to be duly signed by any owner of real estate lying outside of said tract may be waived by City Council if Council, upon recommendation by the Planning and Zoning Commission, determines the required Master Plan does not show more intense development of the tract than would be permitted by the existing zoning of said tract.

4. In case the proposed amendment, supplement or change is disapproved by the Zoning Commission, including the text and/or map, or a protest is presented duly signed by the owners of 20 percent or more either of the area of the lots included in such proposed change or of those immediately adjacent to the rear thereof, extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of at least four-fifths of all members of the Council.

5. Whenever any petition for an amendment, supplement or change of the zoning regulations herein contained or subsequently established shall have been denied by the Council, then no new petition, including the text and/or map, covering the same property and additional property shall be filed with or considered by the Council until one year shall have elapsed from the date of the filing of the first petition. Provided, however, the Council may, in its discretion, by resolution, authorize the filing of a new petition within one year, upon its showing that an enforcement of this provision would impose an undue hardship upon the owner of such real estate.

6. Filing Fees. Before any action shall be taken as provided in this section, the owner or owners of the property proposed or recommended to be changed in the district regulations or district boundaries shall pay to the Clerk a filing fee in an amount established from time to time by resolution of the City Council. In addition to the fee, applicant shall pay to the Clerk, prior to the Council's final consideration of the proposed ordinance, a sum representing the actual cost of mailing notice to surrounding property owners and/or the cost of the publication of notice, as required by this chapter and the actual cost of engineering services incurred by the City in the examination and review of the proposed zoning amendment. Under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

165.27 ZONING ENFORCEMENT OFFICER. The City Manager (or designee) shall be the Zoning Enforcement Officer. The Zoning Enforcement Officer (or designee) shall exercise the following powers and duties:

1. The Zoning Enforcement Officer shall have all enforcement powers, including but not limited to the investigation of complaints of zoning violations, issuance of notices to violators, and the preparation and submission to the City Attorney of reports of those zoning violations which continue unabated after exhaustion of reasonable administrative remedies toward their abatement, for such legal action as the facts of each such report may require.

2. In all cases where the City commences court action, the Zoning Enforcement Officer shall cooperate with the City Attorney by performing such additional investigative work as the City Attorney shall require.

3. The Zoning Enforcement Officer shall attend the meetings of the Planning and Zoning Commission and the Board of Adjustment as requested by those bodies, shall investigate and review all cases presented to the Board of Adjustment, and shall advise that body on those cases upon request.

4. In the event the City Attorney, after analysis of the report, institutes legal proceedings, the Zoning Enforcement Officer will cooperate fully with the City Attorney in the perfecting of such proceedings.

165.28 VIOLATION AND PENALTIES. Any person who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist constitutes a separate offense.

165.29 ENFORCEMENT. In case any building, structure or sign is erected, constructed, or any building, structure, sign, or land is used in violation of this chapter, the City Attorney, in addition to other remedies, shall institute any proper action or proceedings in the name of the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

165.30 SPECIAL EVENTS. The City recognizes that in certain instances, some flexibility to allow special events out of the confines of a building can be beneficial to business interests, as well as to consumers and the City, provided such events continue to promote public health, safety and general welfare. The following special event applications shall require a fee in an amount determined by resolution of the City Council from time to time.

1. Outdoor sales events, including but not limited to sidewalk sales, shall be permitted for two events per year for a maximum duration of seven days per event, subject to approval of the City Manager. Outdoor sales events are those sales events that incorporate one of more 24-hour periods and do not involve the sale of dispensing of alcoholic beverages without prior approval from the Council. Outdoor sales shall not create a burden on parking and access facilities. Outdoor sales events shall maintain fire and emergency access at all times. A Temporary Site Plan may be required by the City Manager to show that the event will not impact the neighboring properties due to noise, congestion, lighting, or additional factors.

2. Seasonal sales events shall be permitted for two events per year for a maximum duration of 45 days per event subject to approval by the City Manager. Seasonal sales events shall maintain fire and emergency access at all times. Seasonal sales events are those events that, due to the nature of the product being sold or the time of year that such product is for sale, are best accomplished out of doors. Seasonal sales events do not include the sale or dispensing of alcoholic beverages without prior approval from the Council. A Temporary Site Plan may be required by the City Manager to show that the event will not impact the neighboring properties due to noise, congestion, lighting, or additional factors.

3. Farmer's market sales events are not permitted except in accordance with Subsection 4 of this section.

4. Public special events are permitted, subject to resolution of the Council, and may include (but are not limited to) national golf tournaments.

A. Temporary street closures, restricted parking areas, parking restrictions and/or requirements for public special events shall be approved by resolution of Council.

B. Temporary structures and/or facilities for such public special events shall be permitted, subject to approval of a Temporary Site Plan by City Council or City staff member designated by the Council.

C. Temporary signs for one public special event per year for a maximum duration of 10 days per event shall be permitted, subject to approval of the Council.

D. Allowance of golf carts on public streets as designated by the Police Chief.

E. Restriction on parking without a permit in designated restricted street parking areas.

F. Temporary non-paved parking areas for one public special event per year for a maximum duration of 10 days per event unless additional days are approved by the Council shall be permitted as follows:

(1) Temporary unpaved parking areas shall be permitted on private property for no more than two vehicles subject to approval of the Police Chief.

(2) Temporary unpaved parking areas for more than two vehicles shall be permitted subject to approval of a Temporary Site Plan by the Planning and Zoning Commission and Council.

5. Temporary Site Plans for events other than those mentioned above shall be approved by the Planning and Zoning Commission and Council. Such events shall require the appropriate permits and/or licenses, including but not limited to: liquor, transient merchants, and chemical toilets. Temporary Site Plans shall be submitted with permit application form supplied by the City Clerk.

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EDITOR'S NOTE

A new Official Zoning Map, as described in Section 165.04 of this chapter, was adopted by Ordinance 2015-200 on January 12, 2015. The following ordinances have been adopted amending the Official Zoning Map, and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	ADOPTED		
2015-200	January 12, 2015	Adopted a New Official Zoning Map	
ORDINANCE NO.	**ADOPTED**	**ORDINANCE NO.**	**ADOPTED**
2015-500	June 22, 2015		
2016-1800	June 13, 2016		
2016-1900	June 13, 2016		
2016-2000	June 13, 2016		
2016-2100	June 13, 2016		
2016-2400	August 19, 2016		
2016-2500	September 26, 2016		
2016-2600	November 14, 2016		
2016-2700	December 12, 2016		
2017-300	February 13, 2017		
2017-1100	November 13, 2017		
2018-700	June 11, 2018		
2019-700	September 10, 2019		
2019-800	August 26, 2019		
2019-900	August 26, 2019		
2019-1100	August 26, 2019		
2020-900	June 8, 2020		
2020-1000	June 8, 2020		
2020-1100	July 13, 2020		
2020-1200	July 13, 2020		
2020-1400	August 25, 2020		
2020-1500	October 12, 2020		
2021-1300	May 10, 2021		
2021-1600	June 14, 2021		
2021-1700	June 14, 2021		
2022-1200	March 14, 2022		
2022-1300	April 25, 2022		
2022-1500	June 13, 2022		
2022-1900	September 12, 2022		
2022-2300	November 14, 2022		
2022-2500	January 9, 2023		
2023-2000	February 27, 2023		
2023-4000	March 27, 2023		
2023-9700	November 13, 2023		

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CHAPTER 166

SIGNS

166.01 PURPOSE. The purpose of this chapter is to provide that signs shall be safely constructed and kept in a safe condition, and that signs shall not be located so as to cause a safety hazard.

166.02 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. "Building sign" means all flat signs of solid face construction which are placed against the building or other structure and attached to the exterior front, rear or side wall of any building or other structure, which includes all signs painted on exterior surface of building.

2. "Changeable copy sign" means a sign with graphical content which can be changed or altered manually.

3. "Channel letter sign" means a sign consisting of internally lit or backlit three-dimensional individual letters or copy and includes channel letter logo signs with a raceway mounting.

4. "Electronic sign" means a sign with graphical content which can be changed or altered manually or automatically through electronic controls or software, including dynamic signs that may display video clips, text, or graphics.

5. "Erect" means to build, construct, attach, hang, suspend, or affix, and also includes the painting of wall signs.

6. "Facing" or "surface" means the surface of the sign upon or against or through which the message is displayed or illustrated on the sign.

7. "Freestanding sign" means any sign supported by uprights or braces, placed upon the ground and not attached to any building.

8. "Illuminated sign" means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as part of the sign proper.

9. "Monument sign" means a freestanding ground sign that does not have any exposed pole or pylon and is attached to a base for at least 66 percent of the entire width of the sign. Monument signs shall be constructed with materials chosen for their

durability and strength, in addition to aesthetic value, and shall match the materials of the principal structure. No gap will be permitted between the sign and the pedestal base that is greater than five percent of the total height of the sign.

10. "Multi-lot sign" means any freestanding monument sign that provides identification or advertisement for more than one lot in a contiguous commercial or industrial development, said sign being under common control.

11. "Multi-tenant sign" means any freestanding monument sign that provides identification or advertisement for more than one premises in a commercial or industrial development under common ownership, management or control.

12. "Panel sign" or "cabinet sign" means a sign consisting of a frame or box covered by an opaque or translucent material that contains text, graphics or similar copy which may be internally illuminated and includes both rectangular and irregularly shaped frames or boxes mounted directly on the building.

13. "Pole sign" means any freestanding sign that is supported by one or more posts or pylons or is not considered a monument sign.

14. "Portable sign" means any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including but not limited to the following: signs designed to be transported by the means of wheels, trailers or chassis, whether or not the wheels are presently attached; sign constructed as or converted to A- or T-frames; menu and sandwich board signs; balloons or other hot-air or gas filled figures; and signs attached to or painted on vehicles parked and visible from the public right-of-way and not being used in the normal day-to-day operations of the business.

15. "Prohibited material" for signs will include paper and cardboard material.

16. "Projecting sign" means any sign which is attached to a building or other structure and extends more than six inches beyond the line of said building or structure or beyond the surface of that portion of the building or structure to which it is attached.

17. "Roof sign" means any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

18. "Sign" means and includes every sign, billboard, freestanding sign, wall sign, roof sign, illuminated sign, projecting sign and temporary sign, and includes any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interest of any person when the same is placed out of doors in view of the general public.

19. "Street line" means the place where the public sidewalk begins and the private property line ends.

20. "Structural trim" means the molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

21. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

166.03 PERMIT REQUIRED; EXCEPTIONS. It is unlawful for any person to erect, alter, or relocate within the City limits, any sign or other advertising structure as defined in this chapter without first obtaining a sign permit from the Building Inspector and making payment of the fee

required by Section 166.06 hereof unless said sign is exempted in accordance with Section 166.13 herein. All illuminated signs shall, in addition, be subject to the provisions of the Electrical Code, and the permit fees required thereunder. This section does not apply to preexisting signs within the City as defined by Section 166.23 herein. However, it does apply to any sign which is altered or relocated within the City or any sign located on a property that is being substantially improved.

1. No sign shall be allowed unless specifically permitted in this chapter.

2. No temporary signs, except garage sale signs, shall be placed within public rights-of-way or alleys unless specifically approved by the City Manager. All temporary signs illegally placed within public rights-of-way shall be subject to removal by the Code Enforcement Officer, Police Department, or Public Works Department.

3. No permanent signs shall be placed within public rights-of-way or alleys unless they are for civic purposes and have been specifically approved by the Council.

166.04 PERMIT APPLICATION. Application for sign permits shall be made upon forms provided by the Building Inspector and shall contain or have attached thereto, the following information:

1. Name, address, and telephone number of the applicant;

2. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected;

3. Position of the sign or other advertising structure in relation to nearby buildings or structures and, in the case of freestanding signs, the setback from public right-of-way;

4. One blueprint or drawing of the plans and specifications and method of construction and attachment to the building or in the ground;

5. Copy of stress sheets and calculations showing the structure is designed for dead load and wind pressures in any direction in the amount required by this chapter and other ordinances of the City as the Building Inspector deems necessary;

6. Name of person, firm, corporation, or association erecting the structure;

7. Method of illuminating the sign and any electrical permit required and issued for said sign.

166.05 PERMIT ISSUANCE PROCEDURE. It is the duty of the Building Inspector, upon the filing of an application for a sign permit, to examine the same, and if it appears that all required information has been submitted and that the proposed sign is otherwise in compliance with all the requirements of this chapter, the approved Site Plan when applicable, and all other ordinances of the City, the Building Inspector shall then issue the sign permit. If the work authorized under a sign permit has not been completed within six months after the date of issuance, the said permit shall become null and void.

166.06 PERMIT FEES. Every applicant, before being granted a sign permit, shall pay to the Clerk for each sign a permit fee according to a schedule adopted from time to time by resolution of the Council.

166.07 HOME OCCUPATIONS. No signs of any kind shall be permitted in connection with home occupations or home offices which are permitted in residential districts under the Zoning Ordinance and other regulations of the City, except as provided in Section 166.13.

166.08 UNSAFE OR UNLAWFUL SIGNS. If the Building Inspector finds that any sign regulated hereunder is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter, such official shall give written notice thereof to the permit holder by certified and regular mail, unless such illegal sign is a temporary sign located within public rights-of-way or alleys, the removal of which requires no prior notification by the Code Enforcement Officer, or designee. Such notice shall include a statement explaining the alleged violations and deficiencies, an order to repair or remove said sign, and an explanation of the consequences of failure to comply with said order. If the permit holder fails to remove or alter said sign so as to comply with the order within ten 10 days after such notice, the offending sign may be removed or altered by the Code Enforcement Officer or designee at the expense of the permit holder or owner of the property on which it is located. The permit holder may appeal the order of the Building Inspector to the City Council, and if such appeal is on file, the 10-day compliance period shall be extended until 10 days following the Council's decision on the matter. If, however, the Building Inspector finds that any sign imposes a serious and immediate threat to the safety or health of any person, such official may order the removal of such sign summarily, and without notice to the permit holder. Such an order may be appealed to the Council, and, if the Council reverses, it shall order restitution at the City's expense.

166.09 PERMIT REVOKED; EFFECT OF REVOCATION. Any permit holder who fails to comply with the valid order of the Building Inspector within the allotted time, or who fails to pay reasonable removal or repair expenses assessed under the preceding section, shall have the permit as to such sign or signs revoked, and another permit for the erection of such sign or signs shall not be issued to said permit holder for a period of one year from the date of revocation.

166.10 PAINTING AND MAINTAINING. The owner of any sign, as defined and regulated by this chapter, shall be required to have properly painted and maintained all parts and supports of the said sign, including maintenance or treatment as is necessary to prevent rust.

166.11 WIND PRESSURE AND DEAD LOAD REQUIREMENTS. All signs and other advertising structures shall be designed and constructed to resist wind pressure, live load, and dead load requirements. For any particular sign in question, the City Inspector may require a structural engineer's certification indicating compliance with acceptable structural standards.

166.12 REMOVAL OF CERTAIN SIGNS REQUIRED. Any sign now or hereafter existing, which has not yet been removed, for more than six months after the last day of business, shall be taken down and removed within 10 days after written notification from the Building Inspector, and upon failure to comply with such notice within the time specified in such order, the Building Inspector is hereby authorized to cause removal of such signs, and any expense incident thereto shall be paid by the owner of the building or structure to which said sign is attached. Time extension may be made by the Council upon written request from said owner. Further, if any existing sign is, upon inspection, found to be unsafe, or in a state of disrepair, such as to affect the health, safety or welfare of the citizens, the sign shall be subject to the provisions of Section 166.08 of this chapter.

166.13 EXEMPTIONS. The provisions and regulations of this chapter shall not apply to the following signs; provided, however, said signs shall be subject to the provisions of Section 166.08.

1. Bulletin boards not over eight square feet in area for public, charitable or religious institutions when the same are located on the premises of said institution;

2. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or non-advertising signs which may be approved by the Council;

3. Signs under gasoline canopies having letterings or text no taller than four inches and a sign area no greater than two square feet.

4. On-site private traffic control signs, in accordance with an approved Site Plan, provided the lettering, text, or graphics are no taller than four inches and the total sign area is no greater than two square feet.

166.14 OBSTRUCTIONS PROHIBITED.

1. No sign shall be erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a stand pipe or fire escape.

2. No sign regulated by this chapter shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; in such a manner as to interfere with, mislead or confuse traffic.

3. No signs regulated by this chapter shall encroach upon or have posts, guides, or supports located within any public right-of-way or alley.

166.15 FACE OF SIGN TO BE SMOOTH. All signs which are constructed on a street line or within five feet thereof shall have a smooth surface and no nails, tacks, or wires shall be permitted to protrude therefrom, except electrical reflectors or devices which may extend over the top and in front of the advertising structures.

166.16 REFLECTORS AND LIGHTING EQUIPMENT. Gooseneck reflectors and lights shall be permitted on freestanding signs and building signs; provided, however, the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of sign as to prevent glare upon the street or adjacent property.

166.17 CERTAIN LIGHTS PROHIBITED. It is unlawful for any person to maintain any sign which extends over public property which is wholly or partially illuminated by floodlights or spotlights, except in areas designated as C-1 zoning areas where a sign may extend up to six inches over public property.

166.18 FREESTANDING SIGNS.

1. All freestanding signs, for which a permit is required under this chapter, shall have a surface or facing of one-half-inch MDO plywood or better quality.

2. All freestanding signs constructed or substantially improved after the adoption of the ordinance[†] codified in this chapter shall be monument signs.

3. All letters, figures, characters, or representations in cutout or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign, shall be safely and securely built or attached to the sign structure.

4. It is unlawful to erect any freestanding sign whose total height is greater than 10 feet above the level of the street upon which the sign faces or above the adjoining ground level, if such ground level is above street level.

5. Open space may be required between the base line of the sign and the ground line when deemed necessary to provide visibility for traffic and public safety.

6. Freestanding signs shall be no nearer the street right-of-way than 10 feet.

7. Freestanding signs shall not exceed one (1) square foot per lineal foot of building frontage with 100 square feet total signage maximum, except multi-lot signs and multi-tenant signs as discussed herein. Double-faced signs, when both sign faces are perpendicular to the public right-of-way and not visible at the same time, shall be permitted to have the maximum allowable size sign on each of the two sign faces.

8. Shielded spotlight, internal message, internal lighting and back lighting signs are permitted in all commercial and industrial districts.

9. Freestanding electronic signs may be permitted in commercial and industrial zoning districts only provided the lighting levels, color intensity, frequency of transitions, or display effects are not intrusive to adjacent residential properties or motorists traveling on public streets. The property owner shall be responsible for reducing lighting intensity or making other adjustments as necessary to minimize the intrusiveness of the sign to a level deemed acceptable by the City Manager.

10. All posts, anchors, and bracing for the same, shall be treated to protect them from moisture by creosoting or other approved methods when they rest upon or enter into the ground.

11. All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof, in a clean, sanitary and inoffensive condition, and free from all obnoxious substances, rubbish and weeds.

12. Signage in C-2A Districts shall meet a standards policy proposed by the Planning and Zoning Commission and adopted by the Council. Multi-tenant signs shall be permitted to have a maximum area of 150 square feet total signage. Multi-lot signs are encouraged and shall be permitted to have a maximum area of 200 square feet total signage.

166.19 BUILDING SIGNS.

1. All building signs, for which a permit is required under this chapter, shall have a surface or facing of one-half inch MDO plywood or better quality.

2. Building signs shall not exceed one square foot per lineal foot of building frontage to a public or private street with a maximum of 100 square feet total signage

[†] **EDITOR'S NOTE:** Chapter 166 was adopted by Ordinance No. 2022-2200 on August 8, 20223.

per street frontage, with exceptions as described below. Logos, stripes and similar items shall be considered part of the sign area.

A. In cases where a building has a gross area of no more than 1,000 square feet, said building shall be permitted to have building signs that shall not exceed two square feet per lineal foot of street frontage with a maximum of 100 square feet total signage per building.

B. In cases where a building has a front yard setback of at least 250 feet from the nearest public street right-of-way, said building shall be permitted to have building signs that shall not exceed two square feet per lineal foot of building frontage with 150 square feet total signage maximum per street frontage.

C. In cases where a building has multiple tenants, each tenant shall be permitted to have building signs that shall not exceed one square foot per lineal foot of building frontage occupied by the tenant on the first floor of the building with 100 square feet total signage maximum per tenant. For multiple-tenant buildings on corner lots, sign area on the secondary street frontage shall be allocated to the tenant occupying said frontage or to building identification (i.e. "town center") or a combination thereof.

D. In cases where a building is situated on a corner lot, with two or more street frontages, sign area from the secondary frontage(s) may be allocated to the principal frontage, provided no building frontage shall have a sign area in excess of 100 square feet, unless the setback to all street frontages is at least 250 feet in conformance with Subparagraph B in which case no building frontage shall have a sign area in excess of 150 square feet.

3. Shielded spotlight, backlit lettering, gooseneck lighting and backlit or internally lit channel letters are permitted in all commercial and industrial districts. Internally lit panel signs and cabinet signs, whether lit or unlit, are strictly prohibited.

4. No building sign shall be permitted to extend more than six inches beyond the building line, defined herein as a projecting sign, and shall not be attached to a wall at a height of less than 10 feet above the sidewalk or ground.

5. Electronic building signs are not permitted.

6. All building signs shall be safely and securely attached to the building wall by means of metal anchors, bolts or expansion screws of not less than three-eighths inch in diameter imbedded in the wall at least five inches in depth; provided however, such signs may rest in or be bolted to strong, heavy, metal brackets, set not over six (6) feet apart, each of which shall be securely fixed to the wall as hereinbefore provided. In no case shall any building sign be secured with wire, strips of wood or nails.

7. Canopy signs at gas stations, car washes, convenience stores and other like businesses are permitted, however the area of each canopy sign, up to a maximum of 25 square feet, shall be considered as part of the permitted total square footage permitted for building signs. Any portion of the canopy that is internally lit shall be considered part of the sign.

8. Awning signs are considered building signs if the awning does not project more than four feet from the building wall; however, only the lighted portion of the awning, together with lettering and logos, shall be considered a building sign. An awning that

is an architectural feature and not internally lit and which does not contain lettering or logos shall not be considered a sign.

9. All building signs shall conform to the requirements of Section 166.11.

166.20 SUBDIVISION SIGNS.

1. In Planned Unit Development (PUD) Districts, subdivision signs which are of a landscaping nature are permitted and may be free-standing. Such signs shall be of such materials and design as shown on an approved Site Plan and there shall be an owner's association that provides for the maintenance of the sign, structures and landscaping. The sign fascia may not exceed 220 square feet in area or 10 feet in height.

2. In Residential and Commercial Districts, subdivision signs which are of a landscaping nature are permitted, and may be freestanding. Such signs shall be of such materials and design as shown on an approved Site Plan and there shall be an owner's association that provides for the maintenance of the sign, structures and landscaping.

3. The sign fascia may not exceed 100 square feet in area or 10 feet in height.

4. The minimum setback required of a subdivision identification sign is five feet.

5. The maximum height of a subdivision identification sign is 10 feet.

166.21 TEMPORARY SIGNS.

1. Temporary Signs in commercial and industrial zoning districts and for permitted non-residential uses in residential zoning districts shall require a temporary sign permit and shall conform to the following regulations:

A. Temporary signs shall be limited to two events per year for any one business. Each temporary sign event shall last for a period of not more than 10 days and shall not exceed two occurrences in a calendar year. In conjunction with a temporary Site Plan, the Council may permit the display of temporary signs for a greater period of time.

B. Grand openings for new business shall be permitted one temporary sign for a period of not more than 60 days.

C. Temporary building signs shall be no larger than 100 square feet. Temporary free-standing signs shall be no longer than 32 square feet in area and have a minimum sign setback of five feet.

2. Temporary signs in residential zoning district shall not require a temporary sign permit provided such signs conform to the following regulations:

A. Temporary freestanding signs shall be no larger than four square feet in size and have a minimum sign setback of five feet. Such signs shall be limited to five per yard. Each temporary sign shall last for a period of not more than three months per year.

B. Temporary building signs are not permitted.

3. Temporary free-standing signs for new subdivisions shall require a temporary sign permit and shall confirm to the following regulations:

A. Such temporary signs shall not exceed 32 square feet on each face, with a maximum of two faces per sign.

B. In residential districts, real estate/project identification signs shall be limited to one sign per subdivision unless the subdivision has more than 1,000 feet of frontage along one public street, in which case no more than two real estate/project identification signs are permitted. Said sign shall be removed before issuance of the final building permit in the subdivision.

C. In commercial and industrial districts, real estate/project identification signs shall be limited to one sign for each lot listed which shall be removed before issuance of a certificate of occupancy for the lot on which the sign is located.

4. Under no circumstances shall any temporary sign be located on public property or affixed to a utility pole or appurtenance located within a public utility easement.

166.22 PROHIBITED SIGNS. The following signs shall not be permitted, erected, or maintained on any property within the City.

1. Roof signs.

2. Pole signs. Existing pole signs constructed prior to the adoption of the ordinance codified in this chapter shall be brought into compliance when the sign is altered or the property redeveloped.

3. Projecting signs.

4. Billboards.

5. Portable or temporary signs, except as permitted elsewhere in this chapter.

6. Inflatables, flag signs, spotlights or strobe lights, whether stationary or moving, intended to draw attention to a location of a property and not primarily intended to accent the signage or building form, except as expressly permitted by the City in conjunction with a temporary site plan.

7. Any signs not specifically permitted herein including any sign unlawfully installed, erected or maintained in violation of this chapter.

166.23 EXISTING SIGNS NOT AFFECTED. Any existing sign, otherwise conforming to the zoning ordinance and regulations of the City on the effective date of the applicable ordinance codified in this chapter, shall be permitted to remain, provided that no such sign shall be replaced or substantially improved, remodeled, repaired, or modified, except in conformance with all of the provisions of this chapter.

166.24 ANNUAL INSPECTION. The Building Inspector shall inspect annually, or at such times as the inspector deems necessary, each sign regulated by this chapter for the purpose of ascertaining whether the same is secure or insecure and whether it is in need of removal or repair.

166.25 ENFORCEMENT. The Code Enforcement Officer or designee employee shall have complete authority to enforce the provisions of this section and may summarily remove any sign which is posted in violation of this section.

(Chapter 166 – Ord. 2022-2200 – Feb. 23 Supp.)

[The next page is 1441]

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 TITLE AND PURPOSE.

1. This chapter shall hereafter be known as the "Subdivision Code" or "Subdivision Regulations" and may be cited as such, and may be referred to herein as "chapter" or "code" The City has adopted this chapter in accordance with the provisions of Chapter 18B and Chapter 354 of the *Code of Iowa* and amendatory acts thereto.

2. The purpose and intent of this chapter is to establish minimum standards for the division of land and for the design and construction of all subdivision improvements within the jurisdiction of the City to provide for:

A. A balance between the land use rights of individual land owners and the economic, social, and environmental concerns of the public while enforcing land use and subdivision regulations; and

B. Accurate, clear, and concise legal descriptions of real estate consistent with zoning and land use regulations and to prevent, wherever possible, land boundary disputes or real estate title problems; and

C. Regulation of the design and construction of public improvements and extensions thereto in a manner consistent with the Comprehensive Plan, Zoning Ordinance, and other plans as may be adopted by the City Council; and

D. Provide adequate land and infrastructure for building sites, transportation, parks, recreational trails, drainage ways, open space, and public facilities for orderly community development and adequate capacity for streets and utilities serving developable land within the jurisdiction of the City.

170.02 JURISDICTION AND APPLICATION.

1. This chapter governs the division, subdivision, and platting of all lands within the corporate limits of the City and the unincorporated extra-territorial jurisdiction as defined herein.

2. It is the specific intent and purpose of this provision to extend all applicable regulations concerning the division, subdivision, and platting of land as set forth in this chapter to all land within the City's extra-territorial jurisdiction and to establish the City's jurisdiction for review and approval of all plats of subdivision, minor plats of subdivision, auditor's plats, acquisition plats, and plats of survey in accordance with the provisions of Section 354.9 of the *Code of Iowa* and as may be established by mutual agreement with the County or neighboring cities pursuant to Chapter 28E of the *Code*

of Iowa in order to set forth reasonable standards and conditions for review of subdivisions within areas of overlapping jurisdiction.

3. No plat of survey, plat of subdivision, minor plat of subdivision, acquisition plat, auditor's plat, or other division of land within the City, or within the City's extra-territorial jurisdiction, shall be recorded or filed with the County Auditor, County Recorder, or County Assessor, nor shall any plat or subdivision have any validity until it has been approved in the manner prescribed herein. If it is determined that a proposed division of land is outside the City's planning area for annexation or extension of municipal services, the City's review authority may be waived by resolution of City Council.

4. No improvements or development shall be commenced within any proposed subdivision until all provisions set forth in this chapter have been satisfied in full; including but not limited to approval of a preliminary plat and construction drawings; and all approvals required by this chapter have been obtained and remain valid.

5. No building permits shall be applied for on any lot or tract until all provisions set for or issued in this chapter have been satisfied in full and all approvals required by this chapter have been obtained and remain valid.

6. No public funds shall be expended or municipal services provided within any proposed subdivision until all provisions set forth in this chapter have been satisfied in full; including but not limited to approval of a preliminary plat and construction drawings; and all approvals required by this chapter have been obtained and remain valid.

7. Implementation for Plats of Subdivision. The Subdivision Regulations defined herein shall be effective on January 1, 2021. Any preliminary plat submitted to the City Clerk prior to said date shall be permitted to comply with the Subdivision Regulations in effect on September 30, 2020, for all phases of development; provided the preliminary plat remains valid in accordance with Section 170.15 of this chapter and provided the required public improvements for the initial phase of development have been accepted by City Council and the Final Plat approved by City Council prior to January 1, 2022. On January 1, 2023, all Plats of Subdivision shall comply with the Subdivision Regulations defined herein for all remaining phases of the plat, even if the preliminary plat was approved under the Subdivision Regulations previously in effect, unless otherwise approved by City Council.

8. Implementation for Plats of Survey, Acquisition Plats, Auditor's Plats, and Condominiums. The Subdivision Regulations defined herein shall be effective on January 1, 2021. Any plat of survey, acquisition plat, auditor's plat, or condominium subdivision submitted to the City Clerk prior to said date shall be permitted to comply with the Subdivision Regulations in effect on September 30, 2020.

170.03 DEFINITIONS

1. "Access" means the location, pace, means, or way by which vehicles or pedestrians have ingress and egress to a property, roadway, parking or loading area, sidewalk, or recreational trail.

2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

3. "Alley" means a minor way other than a street that is intended to provide a secondary means of vehicular access to more than one abutting property and that is open to common use.

4. "Building" means a structure that is designed, used, or intended to be used for the protection, shelter, enclosure, or support of persons, animals, or property.

5. "Building envelope" means the contiguous area of a lot of sufficient shape to accommodate a principal building, exclusive of setbacks, easements, flood hazard areas, required open space, required buffers, or areas set aside for on-site wells or sewage disposal areas.

6. "City" means the City of Polk City, Iowa.

7. "City Engineer" means the City Engineer of the City of Polk City, or a consulting civil engineering firm designated to fulfill or assist the function of the City Engineer.

8. "*Code of Iowa*" means the State *Code of Iowa* and amendatory acts thereto.

9. "Commission" means the Planning and Zoning Commission of the City.

10. "Comprehensive Plan" means the City's long-range plan for land use and development, as formally adopted and amended from time to time by the City Council.

11. "Cul-de-sac" means a street having one end open to traffic and the other end permanently terminated and provided with a turn-around for vehicles.

12. "Developer" means any person, individual, firm, partnership, association, corporation, estate, trust, or other entity that proposes or acts to grade, improve, or otherwise prepare a parcel of land of possible use for any purpose other than agricultural uses that are exempted from local regulation by the *Code of Iowa* or to create a subdivision.

13. "Development" means the act or result of improving a parcel of land for possible use as a building site, or for the use of the land itself, for any purpose except an agricultural use that is exempted from local regulation by the *Code of Iowa* and public projects that are subject to approval by the City Council or State of Iowa under the requirements of other codes or regulations. Development includes, but is not limited to, any form of construction, renovation, redevelopment, or expansions of buildings or other structures; paving, water mains, storm sewers, sanitary sewers, or other improvements to the site; and clearing and other removal of vegetation, grubbing, contouring of land and other grading activities for any land use except an active agricultural use that is exempted from local regulation by the *Code of Iowa*.

14. "Development application" means a request from a developer or proprietor for City approval of the subdivision of land by means of plat of subdivision, final plat, minor plat of subdivision, plat of survey, or acquisition plat, including submittal of all related documentation required by this chapter including but not limited to neighborhood sketch plans, preliminary plats, construction drawings, record drawings, and final plats.

15. "Development Review Committee (or Committee)" means a committee or staff members, or designees thereof, established by the City Manager for the purpose of reviewing development applications, to include the City Engineer and Public Works Director and may include the Fire Chief, Police Chief, and Parks and Recreation

Director; members of the committee may vary as determined by the City Engineer based on the scope of the proposed project.

16. "Easement" means a grant of a right to use a defined portion of a property for a specified purpose or purposes.

17. "Elevation, Minimum Floor" or "MFE" means the lowest elevation of the enclosed area of a building, including but not limited to a basement or crawl space and specifically with respect to the requirements of the National Flood Insurance Program.

18. "Elevation, Minimum Opening" or "MOE" means the lowest opening into an enclosed area of a building as measured to the rough opening for a door, window, opening for mechanical equipment or ventilation, or other opening into said lowest area, and irrespective of any grade, structure, or shutter fastened to or placed around the door or window or whether the door, window, or other opening is operable or inoperable, but not including footing drains or sewers serving the building.

19. "Extra-territorial jurisdiction" means the unincorporated area of Polk County within a two-mile radius of the corporate limits of the City with the exception of those areas lying southwesterly of the Des Moines River and Saylorville Lake and having street access to the City via the Mile-Long Bridge currently on HWY 415 (W. Bridge Road).

20. "Frontage road" means a street that is generally parallel to and separate from a major limited-access thoroughfare or highway, the primary purpose of which is to provide access to adjoining properties.

21. "Functional classification" means the classification of a street or roadway at the sole discretion of the City Engineer as an arterial street, collector street, or local street.

22. "Horizontal property regime" means a subdivision that is created by declaration as provided by and in accordance with Chapter 499B of the *Code of Iowa* and including cooperative housing that is declared as provided by and in accordance with Chapter 499B of the *Code of Iowa*, usually but not necessarily for individual use, lease or to transfer ownership, whether immediate or future, and regardless of whether the division is by deed, description, devise, lease, map, plat, plan, other recorded instrument, previous division or subdivision or condominium or cooperative creation or conversion.

23. "Improvement" or "subdivision improvement" means any one or more of the following that is required by this chapter or by a development, the need for which is generated by a development project: clearing and other removal of vegetation; grubbing; contouring of land and other grading activities; streets and roadways; recreational trails, and sidewalks; signage for traffic control or other governmental purposes; traffic-control devised on roadways, trails, or paths; street, sidewalk, path, or trail lighting; water mains and appurtenances; sanitary sewers; storm sewers and other drainage improvements; erosion control including channel stabilization and sediment control; utility lines and appurtenances; landscaping, berms, fences, retaining walls, and other buffers; parks, recreation, and opens space facilities and playgrounds; grading; and other improvements, whether on or off-site; as permitted by the *Code of Iowa* to mitigate impacts created by development.

24. "Lot" means a parcel of land that, exclusive of any outlot parcels, is of sufficient size and dimensions to comply with all requirements of the Zoning Ordinance and all other requirements and specifications for its intended use, whether or not its boundaries

have been established by a plat of subdivision or plat of survey, and that has been fully improved in accordance with the subdivision improvement requirements of this chapter.

25. "Maintenance bond" means surety or other security instrument that is in a form that is acceptable to the City and that is in such amount, duration, and terms as to ensure that any and all subdivision improvements named in such surety will remain free from defects or failure of any sort, and in satisfactory and good repair for the duration of the periods of time specified by this chapter.

26. "Metes and bounds description" means a description of the boundaries of a parcel of land by use of distances and angles; distances and bearings; references to physical features of the land; or a combination thereof.

27. "Outlot" means a parcel of land that is not sufficient of size, dimensions, or physical character to comply with all requirements of the Zoning Code or all other requirements and specifications of this Code of Ordinances, or that has not been fully improved in accordance with the subdivision improvement requirements of this chapter.

28. "Person" means any individual, corporation, association, firm, partnership, or other legal entity, whether singular or plural.

29. "Park and Open Space Plan" means the City's comprehensive long-range plan for parks, recreational trails, and open space as formally adopted and amended from time to time by the City Council.

30. "Plat" means a map or set of maps that delineate the locations, boundaries, geometry, dimensions, bearings, and other necessary information for lots, parcels, sites, units, condominiums, tracts, or other real property interests that are to be created by a subdivision, or of existing parcels within an Auditor's Plat.

31. "Plat of Subdivision" means a subdivision proposed by a developer who owns the real property being subdivided, or is acting with the consent and on behalf of the owner.

32. "Plat of Survey" means a graphical representation of a survey of one or more parcels of land, together with a complete and accurate description of each parcel, that is prepared by a licensed professional public land surveyor.

33. "Plat, Acquisition" means a plat that is prepared for or as the result of a conveyance or condemnation of a parcel of land or other corporal real property by the City, other governmental entity, or other persons having the power of eminent domain.

34. "Plat, Auditor's" means a plat that is prepared by order of a County Auditor or Assessor to clarify boundaries and descriptions of existing real property interests for the purposes of assessment and taxation, and that does not create any new parcels of land or other divisions of real property, except for conveyance to the City or other public jurisdiction.

35. "Plat, Final" means a complete and exact plat prepared in accordance with the accuracy required by the *Code of Iowa* and this Code of Ordinances for a subdivision, for the purpose of obtaining City approval of the proposed subdivision and subsequently recording it as an official plat.

36. "Plat, Minor" means a plat of subdivision that does not create or necessitate the creation of a new street and that does not contain more than 10 lots or other parcels, excluding parcels being dedicated to the City or other governmental entity.

37. "Plat, Major" means any plat of subdivision that is not a minor plat.

38. "Plat, Official" means a plat of subdivision or Auditor's Plat that complies with this Code of Ordinances and the *Code of Iowa* and that has been filed and made of legal record in the offices of the appropriate County Recorder, Auditor, and Assessor.

39. "Plat, Preliminary" means a plat that delineates a developer's proposed designs for a proposed subdivision and development improvements that are required for or related to the subdivision, including lot layout and supporting infrastructure.

40. "Recreational trail" or "shared use path" means public pathways restricted to pedestrians and non-motorized vehicles for the purpose of separating automobile traffic from pedestrian and non-motorized vehicles and providing connectivity for other public land uses.

41. "Replat" or "Re-subdivision" means a plat consisting in whole or in part of land that has previously been included in a Plat of Record.

42. "Right-of-way" means property that is set aside for a public purpose or common use by more than one property or person if held in private ownership, that has an express or implied property interest such as by fee title or easement and that is separate and distinct form adjoining lots or parcels.

43. "Roadway" means the improved portion of a street right-of-way that is designed, intended, and improved for use by vehicular traffic and, where curbs are laid, the pavement between a set of curbs.

44. "Setback" means the horizontal distance between a property line and the nearest point of a structure, as measured along a straight line that is perpendicular or radial to the property line at the point of measurement, in accordance with the Zoning Code excluding any encroachments permitted by said Zoning Code.

45. "Street" means a roadway together with right-of-way that is the principal means of vehicular access to abutting properties or that is a corridor for vehicular travel and circulation, whether improved or unimproved, and whether designated as a highway, street, avenue, road, drive, place, court, way, lane, or other vehicular way.

46. "Street, arterial" means a street that is designed to connect major centers of activity within and beyond the City's boundaries by performing as a part of an interconnected system of major streets and highways, and accordingly to carry the highest volumes of traffic and the longest trips; including major and major arterial streets.

47. "Street, collector" means a street that is designed to provide direct vehicular access to abutting properties and to collect traffic from local streets and to convey such traffic to the arterial street system.

48. "Street, local" means a street that is designed to primarily provide direct vehicular access to abutting properties.

49. "Street, parkway" means a street that is designed with amenities to enhance the pedestrian experience including elements such as street trees, trails, benches, landscaping, lighting, and wayfinding signage within public right-of-way or easement.

50. "Street, right-of-way width" means the distance between the boundary lines of a street as measured at a right angle or along a line that is a normal line to the centerline of the street at the point of measurement.

51. "Structure" means anything constructed or a combination of materials that form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

52. "Subdivision" means the act or result of dividing a single interest in a parcel of land or other corporal real property into two or more lots, parcels, sites, units, condominiums, tracts, or interests usually but not necessarily for individual use, lease, or to transfer ownership, whether immediate or future, and regardless of whether the division is by deed, metes and bounds description, devise, lease, map, plat, declaration for the establishment of a horizontal property regime under Chapter 499B of the *Code of Iowa*, other recorded instrument, previous division or subdivision, or condominium or cooperative creation or conversion, except for the minimum division necessary under intestacy or a testator's division of real property amongst heirs; partners' division of firm real property amongst themselves upon dissolution by reason of insolvency, and other cases of similar nature. For purposes of this chapter, division of an aliquot part for agricultural purposes only shall not be considered as subdivision.

53. "SUDAS" means the Statewide Urban Design and Specifications program, including the design manual and standard specifications, maintained by the Institute for Transportation at Iowa State University.

54. "Surety" means a security instrument including, but not limited to, a bond, letter of credit, escrow deposit, or other financial guarantee, that the City finds acceptable in form and amount, to ensure that all public and nonpublic improvements will be satisfactorily completed in full compliance with plans and specifications that are approved by the City, whether such improvements are required by this chapter or as a condition of approval of a subdivision or other development.

55. "Surveyor" means a professional land surveyor who is licensed in the State of Iowa and who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.

56. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

57. "Utility fixture" means any structure or appurtenance associated with a utility system including but not limited to water valves, fire hydrants, curb stops, manholes, intakes, flared end section, clean-outs, handhole, pole, or pedestal.

58. "Zoning Ordinance' or "Zoning Code" means the zoning regulations of the City and amendments thereto as codified in Chapter 165 of this Code of Ordinances.

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170.04 CLASSIFICATION OF LAND DIVISIONS.

1. Plat of Subdivision. A Plat of Subdivision shall be required for any division of land that proposes either of the following actions or outcomes, regardless of whether it is a major plat, minor plat, or a replat:

A. To divide a single interest in a parcel of land or other corporal real property into two or more interests, including declarations and establishments of horizontal property regimes and cooperative housing. For the purpose of making such determination, a conveyance of one or more parcels to the City or other public entity for use as right-of-way shall not be counted as one of said three interests; or

B. To create a new street, whether by choice or by necessity in order to comply with minimum frontage or other code requirements, and regardless of whether the street is to be dedicated for public ownership and maintenance, or held in common private ownership and use.

(1) Minor Plat of Subdivision. A subdivision that divides a single parcel of land or other interest in corporal real property into not more than four parcels or interest that each front onto existing, paved, public streets may be classified as a minor subdivision. The City Engineer shall have the authority to classify a subdivision as a minor subdivision provided said subdivision:

a. Does not require any new public streets for access to any lot or parcel;

b. Does not require extension of public sanitary sewer, storm sewer, or water mains;

c. Does not require grading or drainage improvements, including detention, to control runoff that may adversely affect downstream properties;

d. Does not adversely affect the future development or platting of the remainder of the property or adjoining property; and

e. Is not in conflict with provisions of this Code of Ordinances, the Zoning Ordinance, or Comprehensive Plan.

(2) Preliminary plats and final plats for minor plats of subdivision, horizontal property regimes, and cooperatives may be filed for concurrent review and approval.

2. Plat of Survey. A subdivision that divides a single parcel of land or other interest in corporal real property into not more than two parcels or interests; a plat that combines several parcels into a single parcel to clarify or simplify its legal description; or a plat that clarifies the boundaries of one or more parcels of land that have metes and bounds descriptions and that does not create any subdivision, may be done by plat of survey if approved by the City Engineer. Consecutive plats of survey on a single tract of land shall not be used to circumvent the requirement for a plat of subdivision.

3. Acquisition Plat. An acquisition plat may be completed in the same manner as a plat of survey, regardless of the number of new parcels of land or other corporal real

property that are created by the subdivision, if all of the new parcels or interests will be held in public ownership by the City or other governmental entity, or by other persons having the power of eminent domain for the purpose of acquiring such corporal real property.

4. Auditor's Plat. An auditor's plat shall comply with all of the submittals and procedures that are required for a plat of subdivision.

5. Condominiums. The establishment of a condominium, including the conversion of existing buildings or construction of new buildings, with the intent to establish a horizontal property regime with interest in real property shared by co-owners shall comply with the requirements, conditions, and restrictions of Chapter 499B of the *Code of Iowa* and all applicable building codes, fire codes, zoning regulations, and subdivision regulations. All required documents including declaration of horizontal regime, articles of incorporation, bylaws, and rules and regulations shall be provided to the City Manager for review by the Development Review Committee and approval by City Council prior to recordation.

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170.05 REVIEW AND APPROVAL PROCEDURE.

1. Pre-Application Conference. Whenever a developer proposes a plat of subdivision, the developer shall contact the City Manager to schedule a pre-application conference. The pre-application conference shall include the developer and representatives, representatives from the department of community development and the engineering department, and such other City departments that express a desire to be included in such pre-application conferences on a regular basis, or that are deemed helpful or necessary by the City Manager. The purpose of the pre-application conference shall be to acquaint the City staff with the proposed subdivision, and to acquaint the developer with the procedures and requirements of this code along with issues and regulations that pertain to the subdivision. The developer shall furnish a reasonably specific description of the property to be subdivided at the time of requesting the pre-application conference and is encouraged to prepare and submit a conceptual layout plan for the proposed subdivision prior to the conference in order to facilitate the pre-application conference.

2. Neighborhood sketch plan. If the City Engineer determines there is no existing master plan or neighborhood sketch plan or other plan that fulfills the intent of this section by adequately demonstrating how a proposed land development will be compatible with the development of adjoining lands and the Comprehensive Plan, the developer shall submit a neighborhood sketch plan to the City Clerk prior to or in conjunction with the development application for a preliminary plat. Requirements for a neighborhood sketch plan shall be as set forth in Section 170.10 of this Chapter. The procedure for review and approval of a neighborhood sketch plan shall be the same as for a preliminary plat specified in Subsection 3(A) of this section.

3. Plat of Subdivision

A. Preliminary Plat. Following one or more pre-application conferences as determined to be necessary by the City Engineer or as requested by the developer, a preliminary plat of subdivision ("preliminary plat") shall be prepared by the developer and submitted to the City Clerk in accordance with this chapter. Preliminary plats shall be reviewed and presented to the Planning and Zoning Commission in general accordance with the Submittal and Meeting Schedule further defined in Section 170.05, Subsection 9, of this Chapter.

(1) The City Engineer shall review the preliminary plat and the City Clerk shall promptly convey one copy of it to each member of the Development Review Committee for their review and recommendations. The Committee shall review the preliminary plat for conformance to all of the City codes, ordinances, and specifications that they customarily enforce, and for conformance to applicable professional standards. Upon completion of their reviews, each member of the Committee shall forward their recommendations for action on the preliminary plat to the City Engineer for inclusion in a consolidated, written staff report and recommendation that is to be prepared by the City Engineer. The Committee may recommend that the plat be approved, approved subject to conditions and revisions, or that the preliminary plat application be denied for reasons that shall be set forth in the written Committee recommendation.

(2) The City Engineer shall provide a copy of the written staff report and the consolidated recommendations from the Development Review Committee to the developer prior to providing the report and recommendations to the Planning and Zoning Commission to afford the developer the opportunity to make any revisions deemed necessary or appropriate prior to the preliminary plat being provided to the Commission. After consulting with the developer and City Engineer, the City Clerk shall forward the Development Application along with the Committee report and recommendations, each as revised if applicable, to the Commission.

(3) The Planning and Zoning Commission shall review the Development Application and the recommendations of the Development Review Committee and act on the proposed preliminary plat in a timely manner, and may recommend to the City Council that it approve, approve subject to conditions or revisions, or deny the preliminary plat application, whether or not such recommendations are in accordance with the recommendations of the Development Review Committee. If the Commission does not act on the preliminary plat in a timely manner, the developer may request the City Council to consider the preliminary plat and recommendations of the Development Review Committee without the provision of any recommendations by the Planning and Zoning Commission.

(4) The Planning and Zoning Commission and City Council may, at their discretion, hold public hearings on a preliminary plat and may provide notice to nearby property owners or tenants in whatever manner or amount of time that the Commission or Council deems appropriate.

(5) Once a preliminary plat has been reviewed and acted on by the Planning and Zoning Commission, the City Engineer shall forward the Commission's recommendations and the Development Review Committee report and recommendations to the City Council for consideration at its next available meeting, subject to any notifications that may be directed by the Commission or Council and revisions to the preliminary plat to satisfy all recommended revisions and conditions, provided the City Council desires to have all such revisions completed to the Development Review Committee's satisfaction prior to the Council's consideration of the preliminary plat. The City Council may adopt the recommendations of the Development Review Committee; recommendations of the Commission if at variance with the Committee on one or more points; or act freely of their own volition, provided that, the Council shall have no authority to waive any requirements of the zoning code, or of any other City code unless provisions are expressly set out in the pertinent code to grant the Council the powers to waive or make exceptions to or from such code.

(6) Upon approval by the City Council and filing of a revised preliminary plat that satisfies all conditions of approval, the City Clerk shall retain a copy of the approved preliminary plat in the City files and provide a copy to members of the Development Review Committee and to the developer if requested.

B. Construction Drawings. Following approval of the preliminary plat and during such time that the plat remains valid, the developer shall cause detailed construction drawings of and specifications for the subdivision improvements to be prepared by a professional civil engineer who is licensed in the State of Iowa (herein "developer's engineer") and submitted for review and approval by the City engineer.

(1) The developer's engineer shall incorporate all of the subdivision improvements that are required by this code and other applicable regulations, and any that may be required by the City Council as a condition of approval of the subdivision, in the subdivision improvement plans and specifications and shall certify said plans and specifications as being fully compliant with this code and all other applicable regulations.

(2) Said plans and specifications may allow for phased construction, provided such phasing was depicted on a valid preliminary plat. In order to facilitate such phasing, the City Engineer may require certain improvements, including but not limited to temporary turn-arounds and extension of utilities to structures set beyond pavement limits, to ensure each phase remains fully compliant with this code and all other applicable regulations.

(3) Said plans and specifications shall be fully compliant with the valid preliminary plat and the conceptual design of the improvements as depicted therein. If the improvement plans and specifications deviate substantially from the valid preliminary plat, the plans and specifications shall be revised to conform, or the preliminary plat shall be revised and resubmitted for review and approval by the Planning and Zoning Commission and City Council, in full compliance with the requirements of this Code of Ordinances.

(4) Any improvement that is proposed to be constructed in accordance with special provisions that are in variation with or from the City's standard specifications shall first be reviewed and approved by the City Engineer, or their designated agent, as part of the full and complete set of subdivision improvement plans and specifications, and the City Engineer may require any such variation to be submitted for review and approval by the City Council in accordance with Section 170.14 of this chapter.

(5) No improvement or development, or work preparatory thereto except clearing, grubbing and grading, shall be done prior to the City Engineer's finding that the subdivision improvement plans and specifications are complete and in full compliance and have been properly certified by the developer's engineer, and are therefore approved; and that all required permits have been issued by the City Engineer and all other applicable regulatory agencies. Grading may be commenced at developer's sole risk if the City Engineer concurs with conceptual grading plans and stormwater management plans that have been prepared by the developer's engineer.

(6) The developer shall be responsible for applying for and obtaining approval of all required permits from federal, State, and local

governmental agencies or jurisdictions prior to commencing construction of the subdivision improvements.

(7) The developer's engineer shall be solely responsible and liable for ensuring that the subdivision improvement plans and specification are fully compliant with the requirements of this code and all other applicable requirements and permits. The City Engineer's approval of the subdivision improvement plans and specifications, or concurrence with conceptual grading plans, shall only be deemed to allow the developer to commence work on the correlating subdivision improvements or grading, in accordance with the approved plans and specifications and all requirements of this code. The City Engineer's approval or concurrence shall not be found to assume, alleviate, or relieve the developer or developer's engineer from any liability or responsibility for said plans or grading plans and the requirement to construct the improvements in full compliance with this code; to create any vested right to proceed with any development or improvement that is not in full compliance with this code by reason of oversight, error or other reason; to waive any requirement of this code unless this code expressly allows a waiver to be made and any said waiver is made in writing; or to in any way create or assume any liability by or for the City or any of its employees and agents.

C. Final Plat. Following the approval of a preliminary plat; approval of the construction drawings and specifications for subdivision improvement plans and specifications and acquisition of all required permits; and while the preliminary plat remains valid, the developer shall cause a final subdivision plat ("final plat") to be prepared for all of the preliminary plat or for a phase thereof as previously identified on the valid preliminary plat, and submitted to the City Engineer in general accordance with the Submittal and Meeting Schedule further defined in Section 170.05, Subsection 9, of this Chapter.

(1) The City Engineer shall review the final plat and the City Clerk shall promptly convey one copy of it to each member of the Development Review Committee for their review and recommendations. The Committee shall review the final plat for conformance to the valid preliminary plat; conformance to the approved construction drawings and specifications; for conformance to all of the City codes, ordinances and specifications that they customarily enforce, and for conformance to applicable professional standards. Upon completion of their reviews, each member of the Committee shall forward their recommendations for action on the final to the City Engineer for inclusion in a consolidated, written staff report and recommendation that is to be prepared by the City Engineer. The Committee may recommend that the final plat be approved, approved subject to conditions and revisions, or that the final plat application be denied for reasons that shall be set forth in the written Committee recommendation.

(2) The City Engineer shall provide a copy of the written staff report and the consolidated recommendations from the Development Review Committee to the developer prior to providing the report and recommendations to the City Council or the Planning and Zoning

Commission to afford the developer the opportunity to make any revisions deemed necessary or appropriate prior to the final plat being provided to the Commission. After consulting with the developer, the City Engineer shall forward the Development Application along with the Committee report and recommendations, each as revised if applicable, to the City Council or the Commission if a recommendation from Planning and Zoning is required.

(3) Only if the final plat includes substantial deviations from the approved preliminary plat, as determined by the City Manager and excluding phasing of the project, the Planning and Zoning Commission shall review the Development Application and the recommendations of the Development Review Committee and act on the proposed final plat in a timely manner, and may recommend to the City Council that it approve, approve subject to conditions or revisions, or deny the final plat application, whether or not such recommendations are in accordance with the recommendations of the Development Review Committee. If, in instances when a recommendation from the Planning and Zoning Commission is required, the Commission does not act on the final plat in a timely manner, the developer may request the City Council to consider the final plat and recommendations of the Development Review Committee without the provision of any recommendations by the Planning and Zoning Commission. If the final plat does not include substantial deviations as defined herein, the final plat shall proceed to City Council as described below.

(4) The City Engineer shall forward the Commission's recommendations and the Development Review Committee report and recommendations to the City Council for consideration at its next available meeting, subject to any notifications that may be directed by the Commission or Council and revisions to the final plat to satisfy all recommended revisions and conditions, provided the City Council desires to have all such revisions completed to the Development Review Committee's satisfaction prior to the Council's consideration of the preliminary plat. The City Council may adopt the recommendations of the Development Review Committee; recommendations of the Commission if at variance with the Committee on one or more points; or act freely of their own volition, provided that, the Council shall have no authority to waive any requirements of the zoning code, or of any other City code unless provisions are expressly set out in the pertinent code to grant the Council the powers to waive or make exceptions to or from such code.

(5) Upon approval by the City Council and filing of a revised final plat that satisfy all conditions of approval, the City Engineer shall retain a copy of the approved final plat and accompanying documents in the City files and provide a copy to members of the Development Review Committee and to the developer if requested.

D. Recording of Final Plat to Become an Official Plat.

(1) No final plat shall be submitted for filing of record in the offices of the appropriate County Recorder, Auditor, and Assessor;

officially recognized by the City; improvements within a subdivision shall not be accepted for public ownership and maintenance; building permits shall not be applied for; and public funds shall not be expended or services provided within a subdivision, until all provisions set forth in this code have been satisfied in full and all approvals required by this code have been obtained and remain valid.

(2) No final plat shall be released for filing of record unless and until:

a. The required subdivision improvements shall be satisfactorily completed to the full satisfaction of the City Engineer, all Record Drawings have been provided in accordance with Section 170.11 Subsection 3, and all maintenance bonds shall be posted therefore in accordance with Section 170.09 Subsection 6, and performance surety shall be posted for any subdivision improvements that are incomplete and not ready for in accordance with 170.09 Subsection 5;

b. All fees and charges due to the City for review of all Development Applications, construction observation of the subdivision improvements; connection fees and other impact fees; assessments for streets and other improvements; reimbursements for water mains; and any other costs and financial obligations have been paid in full;

c. The developer has paid for the installation of streetlights;

d. The developer has reimbursed the City for all street name signs, traffic-control signs, and pavement markings;

e. Deeds and easements have been submitted to, and reviewed and approved by the City Engineer, in consultation with the City Attorney, in accordance with this code for all streets, parkland, recreational trails, public utilities and subdivision improvements that are to be dedicated to the City or owners' association, as the case may be;

f. All attachments to subdivision plats as required by Chapter 354.11 of the *Code of Iowa* or contents of declaration as required by Chapter 499b.4 of the *Code of Iowa* as the case may be, development agreements, covenants and declarations establishing an owners' association, and any other attachments, declarations, certifications or other documents that may be required as a matter of the filing of a plat whether by this code or the City, have been submitted to and reviewed and approved by the City Attorney in consultation with the City Engineer;

g. All conditions of approval of the final plat by the City Council have been satisfied in full.

(3) The final acceptance of the plat shall not be deemed to constitute final acceptance by the City of any improvements or dedications except as expressly set forth in a City Council resolution. The improvements shall only be expressly accepted by separate action by the City Council after the City Engineer submits a statement advising the Council that all of the improvements have been inspected and found to have been completed in substantial conformance with City specifications and the approved subdivision improvement plans.

(4) Upon finding by the City Engineer that all requirements of this code and of the *Code of Iowa* have been satisfied, the City Clerk shall release the final plat, Council resolution approving said plat, and all necessary documents for recording to the developer, and the developer shall promptly submit same for filing of record in the offices of the appropriate County recorder, auditor and assessor. Be it also provided that, the City Clerk may choose to file any and all deeds and easements for the plat itself, to ensure that they are in fact promptly and properly filed, and may charge the developer for all costs associated with said filing.

(5) The developer shall submit to the City Clerk a certificate of recording from the County Recorder's office, or book and page of recordation, to the City Clerk prior to issuance of any building permits within the platted area.

4. Minor Plat of Subdivision. A minor plat of subdivision shall comply with all of the requirements for a plat of subdivision, except that the developer may incorporate the preliminary plat and final plat into a single submittal for concurrent review and action by the City.

5. Plat of Survey. A plat of survey shall comply with the requirements of a final plat with the exception of the provision of legal documents. However, a plat of survey that does not create a new buildable parcel may be reviewed by the City Engineer for compliance with this code and approved by City Council.

6. Acquisition Plat. An acquisition plat may be reviewed and approved by the City Manager, with concurrency by the City Engineer, in the same manner as a plat of survey.

7. Auditor's Plat. An Auditor's plat shall be submitted, reviewed, and acted upon by the Planning and Zoning Commission and City Council in the same manner as a plat of subdivision.

8. Subdivisions Outside of Corporate Limits. All plats of subdivision, minor plats of subdivision, plats of survey, acquisition plats, and auditor's plats located in the unincorporated area within two miles of the corporate limits of the City shall be reviewed and approved in the same manner (as a like Development Application located within the corporate limits of the City). The Development Application for such subdivisions that necessitate the extension and/or the provision of municipal services, whether at the time of platting or at some point in the future, shall be required to submit an application for voluntary annexation, signed by the owner of the real property included in such subdivision, which shall be recorded and kept on file in the City offices until such time as City Council approves the petition for voluntary annexation.

9. Schedule for Development Review and Approval. All development applications; with the exception of construction drawings, stormwater management plan and record drawings; shall be reviewed by the Development Review Committee and then presented to the Planning and Zoning Commission and City Council in accordance with the Development Review Schedule issued each year by the City Engineer. It shall be the developer's responsibility to coordinate with the City Engineer regarding the schedule for their development application. There shall be no automatic approval granted for development applications that do not strictly adhere to the Submittal and Meeting Schedule.

10. Number and Format of Submittals. All development applications; including construction drawings, stormwater management plan and record drawings; shall be provided to the City Engineer in pdf format. After final approval by the City, a certified pdf copy of the approved application shall be provided to the City Clerk and City Engineer. Refer to the following table for the specific number and format of required submittals for various development applications.

Number and Format of Development Applications				
Submittal Type	For Review by Development Review Committee	For Planning & Zoning Commission Review	For City Council Review	Certified Copies Following Approval
Neighborhood Sketch Plan	pdf only	pdf only	pdf only	1 - 22" x 34" pdf
Preliminary Plat	pdf only	pdf only	pdf only	1 - 22" x 34" pdf
Construction Drawings	pdf only	-	pdf only	1 - 22'x 34" pdf
Final Plat	pdf only	pdf only	pdf only	2 - 22"x 34" pdf
Record Drawings	pdf only	-	-	1 - 22"x 34" pdf
Plat of Survey, Acquisition Plats	pdf only	pdf only	pdf only	1 – full-size pdf

11. Digital files of Plat Improvements Required. The developer's engineer shall provide the digital copies of the computer-aided design (CAD) files to the City Engineer in ArcView shapefiles format; such file shall include all information shown on the approved Construction Drawing. An additional CAD file shall be provided to the City Engineer including all information shown on the approved as-built Record Drawings.

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170.06 PARK AND OPEN SPACE DEDICATION.

1. This section shall not apply to any Development Application, or portion thereof, which does not include residential development and is not zoned to permit residential use.

2. The method for fulfilling the developer's obligation for dedication of park and open space shall be determined in conjunction with the preliminary plat. An agreement regarding said dedication, if required, shall be approved at the time of preliminary plat approval unless otherwise directed by the City Engineer.

3. For purposes of this section, the term "Comprehensive Plan" shall be deemed to mean the City's Comprehensive Plan together with its companion document, the City's Comprehensive Park and Open Space Plan, including updates and amendments thereto as may be adopted from time to time by City Council.

4. Dedicate Land For Park And Recreational Purposes.

A. All persons making a Development Application shall dedicate to public use 8.284 acres of land for park purposes for each 1,000 people, based upon the projected population of the completed development application as calculated in accordance with this section. Therefore, the dedication of land for park purposes shall be equivalent to 361square feet per resident. Such dedication shall be prorated to the amount indicated by the projected population to the nearest 1,000 square feet of land to be dedicated, but in any event, no dedication of such parkland shall contain less than 10,000 square feet of land to be dedicated for park usage.

B. For purposes of this section, population in the completed area covered by the development will be determined by multiplying the number of housing units projected in the area covered by the Development Application for each type of dwelling unit times the anticipated average number of persons per unit as given below times the required square footage per resident. The quantity calculated for each type of dwelling unit shall be added together and the sum shall be the projected population for purposes of the Development Application. The selected dwelling unit type shall be based on the physical characteristics of the structure rather than on the type of ownership planned for the dwellings.

C. The parkland dedication for each dwelling unit type shall be as listed below. If any proposed dwelling unit types are not listed below, the City Engineer shall determine which dwelling unit types shall be used for purposes of calculating the parkland dedication for the development.

Parkland Dedication Requirements		
Dwelling Unit Type (As per Zoning Ordinance)	Population Per Dwelling Unit	Land Dedication Per Dwelling Unit
Single-Family Detached	2.76 persons	995.95 Square Feet
Single-Family Attached (Bi-attached, duplex, townhomes)	2.00 persons	721.70 Square Feet
Multiple Family (Apartments)	1.50 persons	541.28 Square Feet

D. The City may require that all land dedicated under this section be configured or located to optimize aggregations of land and thus may require that the dedicated land be adjacent to the land affected by other development applications or otherwise maximize usefulness of the land in accordance with the Comprehensive Plan. The City may place similar requirements upon dedications under this section in order to assure useful aggregations of land for open space.

E. Only in locations where open space has been designated on the Comprehensive Plan, such open space may be considered as parkland in fulfilling the parkland dedication requirement, or portion thereof. On large tracts of land where a future neighborhood park has been designated on Comprehensive Plan, at least three acres of the required parkland dedication should be usable for development of a neighborhood park. For purposes of this paragraph, land dedicated for open space purposes includes natural resource areas, watershed areas, wooded ravines or embankments, recreational trails, or similar open spaces but shall be exclusive of floodplains.

F. In locations where recreational trails have been designated on the Comprehensive Plan, trail right-of-way may be considered as parkland in fulfilling the parkland dedication requirement. If said right-of-way exceeds 30 feet in width, and the City agrees to accept the excess right-of-way area, the area to be considered as parkland for purposes of fulfilling the parkland dedication requirement shall be based on a corridor no more than 30 feet wide. In certain unique circumstances, the City Council may agree to accept a Recreational Trail Easement in lieu of dedicated right-of-way and building setbacks shall be adjusted such that there is no encroachment by foundations, roofs, or cantilevered structures into the easement area.

G. For purposes of this section, the water area of ponds, streams, detention basins, and other bodies of water as well as surrounding embankments shall not be counted toward any required dedication for park or open space purposes. Further, the land area within any floodway or designated as a required buffer or open space shall not be included in determining any dedication for park purposes.

H. The dedication of any land for park or open space purposes shall include dedication of a corridor or point of connection from public pedestrian access, the area of which shall be included in determining compliance with this section. A minimum of 100 feet of frontage to a public street is required for each park dedicated in accordance with this section, with the exception of land dedicated for open space purposes which shall have a corridor or point of connection that is at least 30 feet wide to accommodate recreational trails and at least 60 feet wide where required by the City to accommodate park access drives and trail.

I. Master Agreement. If the land to be developed is part of a larger area being developed by a single developer or by a group of developers who enter into a single agreement with the City, the developer or developers may enter into a written agreement with the City providing for the dedication of the land relating to the present development in a future subdivision plat, which land shall be dedicated for recreational facilities serving the larger area under development by the developer or developers. The written agreement between

the City and the developer or developers shall establish the timetable for the dedication of the land by the developer. The amount of land dedicated and the method of dedication shall be in accordance with the provisions of this section.

J. Approval of a development application shall be conditioned upon the construction of (or providing sufficient surety for the construction of) the following improvements in accordance with the City's design standards:

(1) Streets abutting any dedicated land.

(2) Utility services (including hookups) to the boundary of any dedicated parkland, with the exception of open space land, including water lines, sanitary sewers, storm sewers, drainage structures, gas lines, electric lines, communications lines, and other such utilities as are (or will be upon completion) available to adjacent tracts.

(3) Sidewalks abutting any public street including recreational trail connections as appropriate.

(4) Site grading and seeding. A minimum of 75 percent of the required parkland area, with the exception of areas designated as open space per Subsection 4(E). of this section, shall be graded to accommodate active recreation. The active recreation area shall be graded such that slopes are not less than 1.5 percent or greater than five percent, except under special conditions when greater slopes are desired to enhance recreation, such as a sledding hill, as determined by the City Council. On-site drainage patterns shall be designed and constructed to ensure runoff is not directed across active recreation areas and approved by the City Engineer. Active recreation areas and lawns shall have a minimum of four inches of clean, lightly compacted topsoil. Seeding shall be completed using permanent seed mixtures based on planned use of the property.

(5) Streetlights on public streets abutting the parkland and open space land, with streetlights designed to illuminate park access locations.

K. If land dedication under this section requires an amendment to the Comprehensive Plan, the need for such an amendment will be reported to the Planning and Zoning Commission which shall make a recommendation to the City Council on the development application.

L. The required land dedication under this section shall be reduced when the person making the development application provides perpetual public access by permanent easement to recreational facilities, playgrounds, unobstructed open spaces, ball fields, soccer fields, tennis courts, basketball courts, volleyball courts, picnic shelters, recreational trails and other similar non-duplicated recreational facilities which have been (or will be) constructed and maintained by the applicant and are not shown on the master parks and trails plan. There shall not be any credit for swimming pools, clubhouses and other recreational facilities not provided in public parks or open spaces unless such recreational facilities are specifically designated on the Comprehensive Plan. In order to determine the credit, the City shall ascertain the fair market value of the land required to be dedicated under this section and from such value subtract 50 percent of the cost of the recreational facilities constructed by

the applicant and provided under this section. The person making the development application shall then only be required to dedicate land equal in value to the remainder.

M. Property subject to public access for recreational trails shown on, or proposed by the City to be shown on, the Comprehensive Plan shall be included in the calculation of parkland dedicated under this section.

N. The dedication of land for recreational trails required under by this chapter shall be platted as an outlot to be owned by the City upon final platting. If specifically approved by City Council, the dedication may include easements to the public of land used, provided such easement is in conformance with Section 170.08, Subsection 16(G) of this chapter. The dedication of land shall be made by the applicant by provision of a warranty deed transferring title of an outlot or outlots to the City at the time of final approval of the plat. In the case where the parkland dedication will be fulfilled, at least in part, by dedication of an easement, the applicant shall provide an easement document granting right of use to the City and the general public at the time of final approval of the plat.

5. Alternative Location for Dedication. As an alternative to land dedication under Subsection 4 of this section, any person filing a development application may provide jointly with other persons for the dedication of land in an amount at least equal to the amount required under Subsection 4 of this section, at a location which is not part of the land for which approval is sought, provided such alternative is within the same neighborhood park district as the land for which a development application has been made, that the alternative jointly provided will provide for a park with a total land area of at least five acres and contiguous connective open space consistent with the Comprehensive Plan, and that such alternative dedication of land is or has actually been dedicated to the City and has been accepted by the City for use in accord with the said plans.

6. Dedication Requirement Less Than One acre. Where application of the formula set forth in Subsection 4 of this section results in a dedication requirement of less than one acre, the person making or filing the development application may elect to dedicate one acre of land or fulfill their obligation by participating in an option provided by Subsection 5 of this section, but such alternative participation shall be based upon the actual calculation under Subsection 4 of this section and not upon the equivalent of one acre of land.

7. Alternate Plan. Subsections 4, 5 and 6 of this section notwithstanding, any entity required to comply with this section may present an alternate plan that meets the purposes of this section as a means of complying herewith. Such alternate plans may include: (i) the developer's payment of a fee in lieu of land dedication that is based on the fair market value of land that has been graded and seeded and includes one-half the cost of typical public improvements based on the minimum 100 linear feet of frontage to a public street; or (ii) the developer's construction of park amenities or trails. It will be the burden of the entity presenting such plan to establish that such plan meets the purposes of this section. The Development Review Committee shall review such plan and make a recommendation to the City Council. Any alternate proposal must directly and proportionately benefit the development and must be approved by City Council in conjunction with the preliminary plat.

8. Single-Family Residential Units: This section shall not apply to any development application containing three or fewer single-family residential units. A person making or filing a Development Application shall not divide land into separate plats in order to seek a waiver under this provision. Where a Development Application is made for multiple contiguous tracts within any two years, the City may treat all the Development Applications as one for the purposes of this section.

9. Horizontal Property Regime: No declaration of a condominium regime under Chapter 499B of the *Code of Iowa*, nor any conversion of an apartment to a condominium under said chapter shall be completed after the date of the adoption of the ordinance codified in this chapter unless the person or entity filing the declaration shall have complied with the land dedication requirements of this chapter.

10. Severability. If any subsection or provision of this section is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this section which can be given effect without the invalid portion or portions and to this end each subsection and provision of this section is severable.

11. Appeal Procedure.

A. Notice of Appeal; Fee. Any person making or filing a Development Application or any person, entity, or developer affected by any decision made by any department acting under Section 170.06, may appeal to City Council by filing notice of appeal with the City Clerk and a filing fee of $100.00 payable to the City to be credited to the general fund of the City. Such appeal shall be filed within 10 days from the decision of the department acting under this chapter and shall set out in detail the reasons and grounds for the appeal. The City Clerk shall forthwith transmit to the City Council all papers constituting the record upon which the action appeal is taken. An appeal stays all proceedings in furtherance of the appeal.

B. Public Hearing. The City Council shall upon the filing of an appeal fix a reasonable time for a hearing, giving public notice thereof as well as due notice to the parties in interest. All interested persons may offer oral or written testimony at the public hearing on the appeal. A vote of three members of the City Council may affirm, modify, or reverse any decision of the Development Review Committee or any department acting under this chapter.

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170.07 REQUIRED IMPROVEMENTS.

1. The developer shall install and construct all public and private improvements required by this chapter prior to Council approval of the final plat except as may be provided for in Section 170.07(5). All required improvements shall be installed and constructed in accordance with the approved specifications and under the supervision of the City Council and to its satisfaction.

2. All improvements required to be installed pursuant to this chapter and the approved construction drawings shall be installed prior to the issuance of building permits for buildings or structures lying within the plan unless the developer signs an Agreement to Complete covering the developer's obligation to complete all outstanding punch list items and has provided to the City Engineer a performance bond, certified check or letter of credit to cover the cost of completing such punch list items, provided the City Engineer determines none of the outstanding punch list items negatively impacts the health, safety, or welfare of builders and construction workers, future inhabits of the subdivision, or the general public.

3. Plats of subdivision shall be improved by the developer to provide all lots within the subdivision with adequate streets and access, public water mains and fire hydrants, public sanitary sewers, storm sewers and other drainage improvements, streets, sidewalks, recreational trails, parks and park infrastructure, mailboxes, streetlights, street signs, and traffic control signs, all to be designed and constructed by the developer as subdivision improvements in full accordance with this chapter and particularly in accordance with design standards set forth in Section 170.08.

4. A developer may be required to extend or expand existing off-site public infrastructure as necessary to fully improve a proposed subdivision, or the City Council may, at its sole discretion, require a proposed subdivision to be delayed until such extension or expansion can be funded and constructed by the City or other developer or governmental entity.

5. Developers shall provide for the perpetual maintenance of any and all subdivision improvements that are not dedicated to the City or other governmental entity, by establishing an owners' association or other person, whether an individual or individuals, in a manner and form that is acceptable to the City. Such improvements may include but are not limited to stormwater detention basins, ponds, bioswales, and infiltration basins; buffer yards, landscaping, fencing or walls, and other screening; subdivision signs, directional signs, traffic signs and pavement markings; and on-site lighting.

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170.08 DESIGN STANDARDS.

1. General Requirements.

A. Subdivisions shall not endanger health, safety or general welfare of the public or of persons residing or working on nearby properties, and shall not impair an adequate supply of light and air to nearby properties.

B. Subdivisions shall be designed to locate and configure subdivision improvements in a manner that will not unduly diminish or impair the use and enjoyment of nearby properties. No subdivision shall be designed or improved in a manner that impedes or appears to impede the development of nearby properties that are within the City or the designated area of review.

C. Subdivisions and all subdivision improvements shall conform to the Comprehensive Plan, Zoning Ordinance, Post-Construction Stormwater Management regulations, and all other applicable City, State, and federal regulations.

D. Developers shall provide for the perpetual maintenance of any and all subdivision improvements that are not dedicated to the City or other governmental entity, by establishing an owners' association or other person, whether an individual or individuals, in a manner and form that is acceptable to the City. Such improvements may include but are not limited to stormwater detention and infiltration basins; buffer yards, landscaping, fencing or walls, and other screening; subdivision signs, directional signs, traffic signs and pavement markings; and on-site lighting. All such private improvement shall be established within a permanent easement that defines maintenance responsibilities for same.

E. Every subdivision shall be designed with regard for existing and proposed topography and drainage patterns, by blending grading for the subdivision smoothly into the land forms on adjoining properties; considering and providing for drainage into and through the subdivision, both existing conditions and at full development of the drainage basin; and by controlling runoff.

(1) An attempt should be made to preserve mature upland forestation and other natural vegetation and geological features, while recognizing that the developer is required to substantially grade and contour a subdivision to construct the required subdivision improvements and properly grade streets, alleys, and lots to comply with this and other City codes and regulations, and State and federal regulations, and recognizing that the probability of post-development survival of trees and other existing vegetation may be greatly diminished by such necessary site modifications and disturbances.

(2) Clear cutting shall not be permitted, particularly in areas identified as agricultural reserve/open space or park/recreation on the Comprehensive Plan, unless specifically approved by City Council and in consideration of quality of species.

(3) Where preservation does not appear to be practical, subdivision and development landscaping should select overstory tree species that will create or reestablish the dominant tree species that

would be native to the environ when possible, or alternatively to create subdivision character that is in keeping with the City as a whole, or that will uniquely identify the subdivision.

(4) The timing of tree clearing operations shall be in compliance with Iowa Department of Natural Resources regulations.

F. Subdivisions shall not create or perpetuate outlots that are intended to prevent adjoining properties from having access to subdivision improvements that are or will be dedicated to the City unless such outlot is expressly approved by the City Council at the time of preliminary plat approval.

G. Subdivisions and all subdivision improvements shall conform to the Comprehensive Plan, Zoning Code, and all other applicable City and State regulations.

H. Standard Specifications. All design and construction shall be in accordance with the Statewide Urban Design and Specifications program (SUDAS). The term "SUDAS" shall be interpreted to include both the SUDAS Design Manual and the SUDAS Standard Specifications, each as current at the time the preliminary plat was approved by City Council, including any amendments approved by the City. Where any conflict exists between SUDAS and the design standards prescribed by this chapter, the requirements of this chapter shall govern. The preferred design alternative should be used whenever possible; in certain unique cases, the City Engineer may allow the acceptable design alternative to be used based upon justification provided by the developer's engineer.

2. Site Suitability.

A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, and shall not be subdivided until showing can be made that those public utilities and improvements will be provided as required by this chapter and/or other applicable ordinances of the City, and proper provision has been made for drainage, water, sewage, transportation facilities and other improvements, to the greatest extent possible, attention shall be directed to the prevention of pollution of air, water, including streams, ponds, and subsurface water aquifers.

B. Areas along major drainage ways and/or areas having steep or unstable embankments shall be required to provide easements of sufficient size to allow for slopes to be laid back at a 4:1 slope should regrading be required in the future, unless such requirement is waived by the City Engineer.

C. Land which the City finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the health, safety and general welfare of the present or future inhabitants of the subdivision, surrounding areas, or both, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by City Council, upon recommendation of the Planning and Zoning Commission to solve the problems created by the unsuitable land conditions.

D. Soil tests and geotechnical report are required in accordance with Section 170.11, Subsection 1(E); to ascertain whether expansive soils or other conditions exist that may affect the suitability and design of the subdivision and subdivision improvements.

3. Blocks.

A. No block shall be longer than 1,320 feet, measured from street centerline to street centerline.

B. At street intersections, block corners shall be rounded with a radius of not less than 25 feet as measured at the right-of-way line. However, the right-of-way radii at intersections involving one or more arterial street shall require special design as consideration and approval by the City Engineer.

4. Lots.

A. Minimum lot dimensions and size shall conform to the requirements of the Zoning Code for the applicable zoning district.

B. A subdivision may establish setback lines that are greater than the minimum requirements of the Zoning Code or other City requirements for any or all lots. By so drawing or designating such setback lines on the plat, such setback lines shall thereafter be the minimum setback requirements for said lots.

C. Setback lines shall parallel the street right-of-way. Minimum lot widths and frontage shall be measured parallel or radial to the right-of-way line respectively for straight or curved segments.

D. Side lot lines shall be at right angles to the street right-of-way, or radial to the street right-of-way on curved streets.

E. Minimum street frontage. All lots shall front onto a street and obtain vehicular access from a street. Lots that front onto a public street shall have the minimum street frontage required by the Zoning Code, including lots that front on cul-de-sac turnarounds.

F. Corner lots. All corner lots shall have a minimum width of 20 feet greater than the minimum lot width required by the Zoning Code in order to permit adequate building setbacks on both front and side streets.

G. Double Frontage Lots. Double frontage lots shall be prohibited, except where such lots back onto a major thoroughfare or highway or in the case of large commercial or industrial lots. Such double frontage lots shall have a 20’ wide landscape buffer easement adjoining the rear street frontage. The building setback shall be measured from the boundary of landscape buffer easement.

H. Flag Lots. The division of land into a flag lot or lots shall generally be discouraged by the City; and only permitted to provide access to lots where there exists unique topography, an unusual configuration of land ownership, adjoining developed land will not allow access from a public street, public land or environmentally sensitive land that is planned to be left undisturbed, or to minimize streets or public infrastructure to reduce maintenance responsibilities. Flag lots shall be permitted only when specifically approved by City Council.

I. Buffers. Buffers and improvements thereto shall be provided by the developer in accordance with the minimum requirements of the Zoning Code, or such additional requirements that the City Council may stipulate as a

condition of approval of a plat. All fences, berms and buffer yard plantings and improvements shall conform to the Zoning Code.

J. Lot Size where Public Services Are Not Available. For the purpose of complying with minimum health standards, lots which cannot be reasonably served by an off-site public or common sanitary sewer system shall have a minimum width of 125 feet measured at the front yard setback line and an area of not less than 40,000 square feet. Lots shall be a minimum of 10 acres where there is proposed an on-site well for potable water and on-site sewage disposal is proposed.

K. Building Envelope. Every lot, with the exception of townhome lots, shall have at least 2,000 square feet of contiguous area, hereinafter referred to as the "building envelope", of a shape sufficient to hold a principal building unless otherwise approved on a Planned Unit Development Master Plan. The building envelope shall be exclusive of setbacks, floodway, and easements and shall be shown on the preliminary plat.

5. Grading and Seeding.

A. The developer and/or his contractors shall be responsible for obtaining approval of a grading permit from the City prior to commencing any tree removal or grading operations. All tree removal and grading shall be in conformance with the requirements of SUDAS, tree ordinance, grading ordinance, and this chapter.

B. During grading operations, existing topsoil shall be stripped and stockpiled on site. No topsoil shall be removed from the property without prior approval of the City Council. A minimum of four inches of topsoil shall be spread across the entire subdivision, exclusive of streets and wet-bottom detention basins or ponds unless the geotechnical report clearly demonstrates there is insufficient existing topsoil on site; in which case the developer shall develop a mitigation plan for review by the City Engineer and approval by City Council in conjunction with the Construction Drawings. The developer shall provide verification of compliance with topsoil requirements.

C. All lots in subdivisions shall be graded to be entirely one foot or more above the base flood elevation as determined by the Federal Emergency Management Agency (FEMA) for a regulatory flood having a one percent or less chance of occurring in any one year, or any such higher standard that may hereafter be adopted by FEMA, and to allow basements that will be not less than one foot above the base flood elevation of the regulatory flood to be included in single-family detached residential and any and all other development that customarily is constructed with basements or other low enclosed building areas, on all lots. The developer shall cause minimum floor elevations (MFE) that are fully compliant with City and FEMA regulations to be noted on the final plat, or an engineer's exhibit attached to the final plat, and the final plat shall state that the property owner is responsible for maintaining their lot in perpetual compliance with said minimum floor elevations (MFE).

D. When a portion of a proposed lot lies less than one foot above the FEMA-established base flood elevation, said area shall be designated as an unbuildable outlot and perpetually tied to the adjoining buildable lot by a record of lot tie agreement that shall be recorded with the final plat.

E. Minimum opening elevation (MOE) requirements are intended to protect property only from localized storm runoff, detention basins and ponds, or shallow flooding, and shall not be allowed or construed to satisfy or comply with FEMA requirements or City code requirements and intent to protect persons and property from the dangers and adverse effects of flooding, regardless of whether a LOMR-F has been obtained for a property. MOE requirements shall be construed to apply to an entire lot and all portions of every building unless an exception is expressly noted and approved with whatever conditions and limitations that are deemed appropriate for any such exception, including, but not limited to, a case where MOE protection is necessary for surface water flowage or stormwater management that is contained within a public easement on a portion of a lot, and does not affect the entire lot. The developer shall cause minimum opening elevations (MOE) to be noted on the final plat, or an engineer's exhibit recorded with the final plat, and the final plat shall state that the property owner is responsible for maintaining their lot in perpetual compliance with said minimum opening elevations (MOE).

F. No cut trees, timber, debris, contaminated soil, waste concrete, junk, rubbish, sewage, garbage, or food waste shall be buried, or left deposited on any private or public lot or outlot at the time the public improvements are accepted. Debris and soil deposited on existing public streets during construction shall be removed by the developer before the end of each work day.

G. As soon as practicable following completion of grading, the entire site shall be seeded with an erosion control seed mixture in accordance with SUDAS. However, areas designated for parks or similar areas that will be owned by the City or under common ownership by an Owners Association shall be seeded with a permanent lawn mixture. Detention basins and ponds shall be seeded with a permanent seed mixture that is deemed suitable to wet conditions by the City Engineer.

6. Streets.

A. The street layout in proposed plats and subdivisions shall conform to the Comprehensive Plan and Zoning Regulations.

B. General. Streets shall be platted with appropriate regard for topography, creeks, wooded areas, and other natural features which would lend themselves to attractive treatment whenever possible.

C. Connectivity. Public streets in all subdivisions shall be designed and configured to provide connectivity between adjoining properties and subdivisions to facilitate access and circulation within neighborhoods; to be in conformance with the Comprehensive Plan and Complete Streets Policy; and to thereby minimize and reduce traffic congestion, improve the efficiency of providing municipal services and enhance public health, safety and welfare together with protecting and increasing property values. Subdivisions of large parcels shall be designed and phased accordingly, to establish such connectivity at the earliest reasonable date.

D. Functional Classification. The City Engineer shall have the sole authority to establish the municipal functional classification of a street as a major arterial, minor arterial, collector or local street for the purposes of this

code. The municipal functional classification may deviate from the federal functional classification for the same street.

E. Right-of-Way. All new street rights-of-way shall be conveyed by warranty deed and without any conditions or limitations, in accordance with the following:

(1) Major arterial street rights-of-way shall be designed to have a total minimum right-of-way width of 120 feet, or wider if so required by the City Engineer or City Council, and subdivisions on each side of the centerlines thereof shall dedicate one-half of such width;

(2) Minor arterial street rights-of-way shall be designed to have a total minimum right-of-way width of 100 feet, or wider if so required by the City Engineer or City Council;

(3) Parkways shall be designed to include a continuous 15 feet wide parkway easement on both sides of the parkway.

(4) Collector street rights-of-way for residential subdivisions shall be designed to have a total minimum right-of-way width of 70 feet, and collector street rights-of-way for nonresidential subdivisions shall be designed to have a total minimum right-of-way width of 80 feet, or wider if so required by the City Engineer or City Council.

(5) Local street rights-of-way for residential subdivisions shall be designed to have a total minimum right-of-way width of 60 feet, and local street rights-of-way for nonresidential subdivisions shall be designed to have a total minimum right-of-way width of 70 feet, or wider if so required by the City Engineer or City Council.

(6) Additional street rights-of-way widths may be required to be dedicated at the intersections of streets and access points, in order to accommodate turn lanes and sidewalks within the rights-of-way.

(7) Additional street rights-of-way widths may be required to accommodate alternative forms of transportation, including but not limited to pedestrians and bicycles, in accordance with the City's Complete Streets Policy.

The foregoing street rights-of-way widths may be amended if previously approved by the City on a Master Plan or Planned Unit Development (PUD) plan.

F. Costs; Responsibilities. Developers shall be fully responsible for the following costs related to street improvements, all of which shall be designed and constructed in accordance with SUDAS:

(1) The entire cost of providing and installing all collector and local streets within a subdivision.

(2) A portion of the cost of improving any existing, unimproved granular street, or any existing substandard or non-conforming street, that abuts the proposed subdivision. The developer's cost share shall be 50 percent of the cost of the street improvement project up to a maximum width of 15.5 feet of P.C.C. pavement, along with associated storm sewers grading and engineering, and shall be based on a cost

opinion prepared by the City Engineer for design and reconstruction of the existing street to meet City standards. If the City Engineer determines it is impractical for the developer to pave said abutting, unimproved street as a subdivision improvement, generally based on the status of development on the opposite side of the unimproved street, the City shall require the developer to provide a Subdivision Bond, a cash payment to the City to be held in escrow for future paving of the unimproved street, or similar security as may be approved by the City Attorney to cover the developer's responsibility for paving of the unimproved street.

(3) The cost for providing and installing turn lanes, street widening, medians, traffic signals and similar traffic and transportation improvements based on a Traffic Impact Study if required for the subdivision in accordance with Section 170.08, Subsection 6(X) and other issues as may be determined by the City Manager.

(4) The cost of planting street trees at approximately 40 feet on center on each side of the street on all designated parkways.

G. Continuation of Existing and Planned Streets. Subdivisions shall be designed to provide for the continuation of existing and planned public streets, and those in valid preliminary plats, in whatever manner is deemed appropriate by the City Engineer. Streets shall be designed and configured to conveniently channel local traffic onto collector and arterial streets and to discourage through traffic, being that which does not have an origin or destination within the subdivision or nearby area, from utilizing collector or local streets as a means of traveling from arterial street to arterial street.

H. Intersections. Street intersections shall be in conformance with SUDAS and shall be at right angles wherever possible and not less than a 90-degree angle or shall be in conformance with SUDAS requirements if said requirements are more restrictive. The minimum offset between street intersections shall be in conformance with SUDAS.

I. Improvement and Dedication. Streets shall be so located and designed as to be improved and dedicated to the full rights-of-way and roadway widths as required by this code. No street shall be designed or accepted for half-width paving or right-of-way dedication.

J. Limited Access to Arterial and Collector Streets.

(1) Streets and other vehicular accesses shall be designed to intersect or otherwise connect to arterial streets at points measuring not less than a nominal minimum distance of 600 feet between full movement accesses and of 300 feet between any access and right-turn only or other limited-movement accesses to said arterial street; provided that access shall be in conformance with SUDAS requirements if they are more restrictive.

(2) Single-family lots in plats of subdivision shall not be allowed to have driveway access to an arterial street, except where no other streets are reasonably available to provide access and subject to the locations of any such accesses being shown on the plat and approved

by the City Council. Such access restriction shall be noted on the final plat.

(3) The final plat shall restrict access to corner lots and double-frontage lots to the lower-order street unless otherwise approved by City Council.

K. Turn Lanes and Traffic-Control Devices.

(1) Right and left turn lanes shall be provided at all points that provide or are intended to provide access to an arterial street from existing or proposed nonresidential or multi-family residential development, unless such requirement is waived by the City Engineer. The City Engineer may require right and left turn lanes to be provided for access to a collector street based on the design of the subdivision or neighborhood and expected traffic volumes.

(2) The City Engineer may require traffic signalization or other traffic control devices to be included in the subdivision improvements for any plat of subdivision if zoned or planned for nonresidential or multi-family development.

L. Shared access and alignment. Streets and other vehicular accesses shall be designed to align with existing or proposed, approved streets and other vehicular access points on the opposing frontage of arterial and collector streets. Cross-access easements shall be provided, in whatever configuration, dimension, and manner that the City Engineer deems necessary and appropriate, to allow and facilitate the sharing of access to public streets by multiple properties, whether the properties are within or outside of the subdivision boundaries, in order to reduce traffic conflicts and congestion, and improve safety.

M. Culs-De-Sac.

(1) Culs-de-sac shall not exceed a length of 600 feet as measured from the centerline of the intersecting street to the center of the turnaround, and shall not serve more than 30 dwelling units, unless a longer length or larger numbers of units is approved by the City Council, upon recommendation of the City Manager and Fire Chief, in accordance with Section 170.14 of this chapter.

(2) Only two cul-de-sacs are allowed per 40 acres, with exceptions granted administratively of up to three culs-de-sac per 40 acres based on the topography.

(3) Land uses generating a maximum of 300 average daily trips ("ADT") or a maximum of 30 single-family detached dwelling units will be permitted access to a cul-de-sac street without a second means of access. Traffic generation will be based upon trip generation in accordance with the Institute of Traffic Engineers. Land uses exceeding said maximums shall have secondary access unless otherwise approved by City Council in accordance with Section 170.14 of this chapter.

(4) A permanent turn around shall be provided at the end of each cul-de-sac in accordance with SUDAS, except that the minimum cul-

de-sac radii shall be 45 feet as measured at the back of curb of the roadway and 62 feet as measured at the street right-of-way. Permanent dead-end street other than culs-de-sac are prohibited, and no lots shall take their access from a dead-end street other than a cul-de-sac, permanent or temporary, unless waived by City Engineer or if driveway access is restricted. Hammerheads shall not be considered an acceptable alternative to a cul-de-sac.

(5) "Eyebrow" Culs-de-sac. A cul-de-sac bulb used at an "L-shaped" intersection in the street shall be discouraged, and only permitted to improve access to lots at the "eyebrow" cul-de-sac intersection due to the unique topography of the area, unusual configuration of land ownership, or existing adjoining developed land will not allow access from a through street or traditional cul-de-sac, or the existence of public land or environmentally sensitive land that is planned to be left undisturbed. The "eyebrow cul-de-sac" at an intersection shall be designed with dimensions, radii and curve standards as used for culs-de-sac with the center of the cul-de-sac bulb located at the intersection of the street centerlines and shall have a minimum radius of 50 feet as measured at the back of curb of the roadway and 65 feet as measured at the street right-of-way.

(6) Temporary Culs-de-sac. Streets that are temporary dead-end streets shall be provided with a turnaround having a cul-de-sac with radii no less than 40 feet and of a design that is satisfactory to the City Engineer. A gravel turnaround shall be considered acceptable if the temporary dead-end street is part of a larger subdivision by the same developer, provided the street is extended within two years and provided the developer maintains the gravel turnaround in a manner that is acceptable to the City Engineer until such time as the street is extended. Hammerheads shall not be considered an acceptable alternative to a cul-de-sac unless specifically approved by City Engineer for short-term applications only.

N. Access to Bi-attached or Townhomes From Public Streets. Any subdivision designed to accommodate townhomes and bi-attached homes shall provide driveways off private streets rather than public streets whenever possible. In unique cases, the City may approve driveway access for bi-attached dwellings or townhomes off a public street provided the driveway approaches with public right-of-way are spaced no closer than 80 feet on center. Shared driveways may be required to achieve said driveway approach spacing.

O. Secondary Access Required. Land uses generating more than 300 average daily trips or more than 30 single-family detached dwelling units shall have a secondary means of access to the lots, unless otherwise approved on a valid preliminary plat. Traffic generation will be based on actual traffic counts or upon trip generation in accordance with the Institute of Traffic Engineers.

P. Pavement Width. The width of the street or roadway shall be in accordance with SUDAS, based on the functional classification of the roadway as determined by the City Engineer or unless otherwise approved by the City on a Planned Unit Development (PUD) Master Plan.

Q. Pavement and Subbase Material. All proposed public streets shall be paved with Portland cement concrete (PCC) and shall have six-inch integral curb and gutter, unless an alternative paving material or design is approved by the City Council in accordance with Section 170.14 of this chapter. All streets shall be continuously reinforced pavement in accordance with the City's standard details as may be provided by the City Engineer. Pavement thickness shall be per SUDAS, based on the municipal functional classification of an equivalent street as determined by the City Engineer. The City Engineer may require the developer's engineer to complete a pavement thickness design per SUDAS to determine required thickness of materials, subdrain requirements, and other design parameters based on a 50-year analysis period.

R. Extension to Plat Boundary. All public streets shall be extended to the plat boundary unless otherwise specifically approved by City Council upon recommendation by the City Engineer. In such unique cases, the responsibility for future extension of the public street may be addressed though a Development Agreement approved by City Council.

S. Private Streets. Unless otherwise approved by City Council, private streets serving commercial uses shall be a minimum of 24 feet wide unless the City Engineer determines greater width is necessary due to expected traffic volume or truck traffic. Private streets serving residential uses shall be in conformance with Zoning Code. Pavement thickness shall be per SUDAS, based on the functional classification of an equivalent street as determined by the City Engineer. All public utilities shall be located outside the pavement unless otherwise approved by the City Engineer and the easement for said public utilities specifies the City shall not be responsible for removal and/or replacement of the street pavement should utility repair, replacement, upsizing, or similar work be deemed necessary by the City.

T. Street Names. All newly-platted streets shall be named and in a manner conforming to the City's street naming system. A proposed street that is in alignment with other existing streets shall bear the same name. The proposed names of new streets shall be shown on the plats and such names shall not duplicate or sound similar to existing street names. Street names using commonly used words, such as Lake or Prairie, shall be avoided. Horseshoe-shaped streets shall change names in a location deemed most appropriate by the Development Review Committee. In no case shall there be two or more intersections with the street same names. Cul-de-sacs shall not bear the same name as a perpendicular street. City Council reserves the right to alter the proposed names of streets before acceptance of the final plat.

(1) Public streets shall be designated as follows:

General Direction	Long Streets	Short Streets (600' or less)
North - South	Street	Place
East - West	Avenue	Court
Random Curving	Drive	Lane

(2) Cul-de-sacs shall bear the same name as the entering street and shall be designated as "Circle."

(3) Streets running in a predominantly north/south direction shall be numbered according to the City's address grid.

(4) All street names shall have a directional prefix based on the City's address grid.

(5) Private streets shall be designated as "Way."

U. Half Streets. Dedication of half streets will not be permitted. Where there exists a dedicated or platted half street or alley adjacent to the property to be subdivided, the other half shall be platted if deemed necessary by the Council.

V. Alleys. Alleys may be permitted in commercial areas provided the alley is privately owned and maintained. Alleys may be permitted in residential areas to provide access to the rear of the lots where said lot also has frontage on a public street. Alleys serving multiple properties shall be maintained by a property owners or property owners association. Dead-end alleys shall be provided with a means of turning around at the end of the alley. Public utilities shall not be located within an alley.

W. Driveways. Driveways for single-family residential uses shall not be permitted to access arterial streets or, to the extent possible, collector streets. Such access restrictions shall be noted on the final plat.

X. Traffic Impact Study. A Traffic Impact Study shall be required when a proposed subdivision will generate 100 or more added (new) trips during the adjacent roadway's peak hour or at the development's peak hour. The developer will be responsible for completing an application for traffic analysis including the preliminary plat or detailed concept plan; building locations, types, quantity, and land use; and all proposed access locations; and peak hour trips in accordance with Institute of Transportation Engineers (ITE) standards. The Traffic Impact Study, when required, will be completed by the City Engineer. The developer will be responsible for the entire cost of said Traffic Impact Study, with these costs paid in full prior to any work being commenced on the study in accordance with Section 170.13. The City Engineer has the authority to waive the requirement for a Traffic Impact Study if deemed appropriate.

7. Water Mains.

A. Water mains shall be a minimum of eight inches in diameter, or larger if increased size is determined to be necessary to provide domestic and fire flows as determined to be satisfactory and necessary by the City Engineer. Developers shall be fully responsible for the costs of all mains that are 8 inches or less in diameter, however developers shall not be responsible for the cost of upsizing the water main to a larger pipe unless the larger pipe is needed to serve the developer's subdivision or property. The cost of the water main shall include the pipe and bedding, together with all hydrants, valves and other appurtenances thereto, and as may be otherwise required to be in full accordance with the requirements of SUDAS and applicable City codes.

B. Water service lines shall be extended to each lot. The minimum size for a water service line serving a single-family dwelling shall be one inch and shall terminate at a curb stop located one foot inside the right-of-way line.

C. Duplexes, bi-attached residences, townhomes, and condominiums shall have a separate water service line to each dwelling unit. No lot shall have more than one service line, whether or not in actual use, unless expressly approved by the City Engineer.

D. Fire hydrants shall be provided in the number and locations required by the City Engineer, in consultation with the Fire Department, and shall be supplied with appropriate connections as may be specified by the Fire Department. Fire hydrant coverage shall be in conformance with City fire code or SUDAS, whichever is more restrictive. The City Engineer may approve adjustment to building setback lines on the preliminary and final plats to ensure adequate hydrant coverage is provided to the buildable areas of the lots. Water mains shall be located within public right-of-way wherever possible. If the City allows a fire hydrant to be located on private property, the developer shall provide paved access to said hydrant, with pavement designed to support fire trucks and including a turn-around as approved by the Fire Chief.

E. Fire hydrants shall be located at least two feet outside all sidewalks and trails, whether existing, proposed, or future; or at a minimum distance as per SUDAS; whichever is greater.

F. Water valves shall be located at least one foot outside all sidewalks and trails, whether existing, proposed, or future.

G. Extension to boundary. Water mains and appurtenances thereto shall be extended to the boundary of the plat of subdivision where necessary to accommodate future extensions as determined by the City Engineer.

H. For subdivisions that cannot reasonably be served by a public water system, a private water system shall be installed to meet City standards, including provision of fire flows and construction observation, and an agreement shall be executed and recorded providing for conveyance of the water system to the City without cost upon annexation. All such private facilities shall be restricted to personal household and agricultural uses, and shall be subject to approval by Polk County Board of Health or to certification by an independent professional engineer and qualified testing laboratory if not subject to County regulation or if the County lacks the ability to perform the necessary testing and approval of the facility's design and construction.

8. Sanitary Sewers.

A. Sanitary sewers shall be a minimum of eight inches in diameter, or larger if increased size is determined to be necessary to serve the entire service area as determined by the City Engineer. Developers shall be fully responsible for the costs of all sanitary sewers that are 8 inches or less in diameter, however developers shall not be responsible for the cost of upsizing the sanitary sewer to a larger pipe unless the larger pipe is needed to serve the developer's subdivision or property. The cost of the sanitary sewer shall include the pipe and bedding, together with all structures and other appurtenances thereto, and as may be otherwise required to be in full accordance with the requirements of SUDAS and applicable City codes.

B. Sanitary sewer service lines shall be extended to each lot. The minimum size for a sanitary sewer service line serving a single-family dwelling shall be four inches and shall terminate 10 feet inside the lot. Duplexes, bi-

attached, and townhomes shall have a separate sanitary sewer service line to each dwelling unit. No lot shall have more than one service line, whether or not in actual use, unless expressly approved by the City Engineer.

C. Sanitary sewers shall be constructed outside the limits of the street pavement wherever possible.

D. The minimum grade for a sanitary sewer shall be 0.5 percent, or as specified by SUDAS, whichever is steeper.

E. Truss pipe shall not be permitted for public sanitary sewers.

F. The end of all sanitary sewer service lines shall be marked with a wood 2x4, set at the flowline elevation at the end of the pipe and extending up to the surface elevation of the ground at that location.

G. Sanitary sewer manhole castings shall be located at least one foot outside all sidewalks and trails, whether existing, proposed, or future.

H. Where sanitary sewer services are added to an existing sanitary sewer line or when a new manhole is constructed on top of an existing sanitary sewer line, the developer shall be responsible for re-testing the existing line following construction.

I. Extension to boundary. Sanitary sewers and appurtenances thereto shall be extended to the boundary of the plat of subdivision where necessary to accommodate future extensions as determined by the City Engineer.

J. Subdivisions within corporate limits shall be connected to the City's sanitary sewer system. Subdivisions without sanitary sewer service shall only be permitted by special approval of City Council and shall require construction of dry sanitary sewers within a 50-foot wide easement or provision of a 100-foot wide easement for construction and maintenance of future sanitary sewers.

K. For subdivisions outside corporate limits that cannot reasonably be served by a public sanitary sewer system, dry sanitary sewers shall be installed to meet City standards, and an agreement shall be executed and recorded providing for conveyance of the sanitary sewer system to the City without cost upon annexation. The sanitary sewer easement for such dry sewers shall be 50 feet wide, minimum. In certain unique cases, City Council may waive the requirement for dry sewers provided a sanitary sewer easement not less than 100 feet wide shall be provided to allow for construction and maintenance of future sanitary sewers.

9. Storm Sewers and Drainage.

A. Stormwater Management Plan. A stormwater management plan, prepared and certified by the developer's engineer, shall be provided for review and approval by the City Engineer. Such plan shall be in conformance with SUDAS and municipal code including but not limited to the tree ordinance, floodplain management ordinance, stormwater management ordinance, grade ordinance, and this chapter.

B. Developers shall be fully responsible for the cost of all storm sewers, structures, and appurtenances thereto, drainage ways and other surface water flows, and stormwater detention facilities; all of which shall be designed and constructed in accordance with SUDAS and applicable City codes. Sump pump

collector lines conveying no surface drainage shall be eight inches minimum in size and shall contain clean-outs set in a 12-inch x 12-inch concrete pad.

C. All curb intakes, storm sewer cross runs, structures, and manholes shall include placement and compaction of a layer of special backfill. For curb intakes, the layer of special backfill shall be placed from one-half foot below the finished grade elevation, measured behind the curb, to a depth of three and one-half feet. This layer shall be two feet in width installed on all sides of intake outside of pavement. For area intakes and manholes, the layer of special backfill shall be placed from the finished grade elevation to a depth of three feet. This layer shall be two feet in width installed on all sides of the structure. For storm sewer cross runs, the layer of special backfill shall be placed from the bottom of subgrade to a depth of three feet. This layer shall be two feet wide on each side of the pipe's outside diameter.

D. Storm sewer manhole and intake castings shall be located at least one foot outside all sidewalks and trails, whether existing, proposed, or future.

E. Subdrains shall be provided along both sides of all public streets unless waived by the City Engineer and approved by the Public Works Director. Open jointed storm sewers may be considered as an alternative to subdrains if approved by the City Engineer.

F. In areas where the longitudinal slope of the proposed roadway meets or exceeds 6.0 percent, flowable mortar cutoff walls per SUDAS Figure 7040.105 are required located at a spacing not to exceed 150 feet. Lateral subdrains will be continued longitudinally along pavement to the nearest intake or approved free outlet.

G. All lots that are zoned or planned for single-family residential development shall be provided with a storm sewer service line that is capable of collecting and conveying footing drain discharges to an appropriate outlet. Open discharge of footing drains shall not be permitted unless specifically approved by the City Engineer and only if an acceptable drainage way with overland flowage easement is available on the same lot.

H. The end of all storm sewer service lines shall be marked with a wood 2x4, set at the flowline elevation at the end of the pipe and extending up to the surface elevation of the ground at that location.

I. Provisions for large storm events. Provisions shall be made and maintained for surface passage of runoff from storms that exceed the design capacity of the storm sewer system, without causing flooding or damage to public streets or nearby properties. Surface water flowage easements shall be provided over any and all such areas of flow that convey any off-site runoff through a lot, of sufficient dimensions to cover the runoff resulting from a storm having a one percent chance of occurrence in any single year, as defined by SUDAS.

J. Detention. Stormwater detention shall be calculated and provided in accordance with SUDAS.

(1) Whenever possible, stormwater detention shall be accommodated in regional basins serving multiple parcels of land rather than individual lots; and shall be constructed as a subdivision

improvement whenever possible rather than being deferred as a future site improvement.

(2) Stormwater detention facilities shall be privately owned and maintained. However, in certain unique circumstances with demonstrated recreational needs, the City Council may consider taking ownership of a detention facility or pond. In such unique cases, the developer shall sign an Agreement to Complete with appropriate security that obligates the developer to certify the grading of said facility or pond is complete at the time the subdivision is 80 percent developed, with the timing of said certification to be as determined by the City Engineer. This Agreement shall specifically require the developer to remove accumulated silt and sediment as may be necessary to demonstrate the as-built conditions correspond to the approved design in accordance with the approved Construction Drawings.

(3) Stormwater detention shall not be located within a Federal Emergency Management Agency (FEMA) designated one percent floodplain. Unless otherwise approved by the City Engineer, stormwater detention shall be located adjacent to, rather than within natural drainageways. Storm detention shall not be located within minimum required buffer yards or landscape setbacks unless the detention is located within a subsurface structure of sufficient depth below the surface to allow required landscaping to be planted and maintained over such buried detention.

(4) Low flows shall be piped through detention basins whenever possible, and a paved trickle channel shall be provided to convey the low flows if piping is not practical, to facilitate maintenance of the basin unless the basin is expressly designed to facilitate the absorption or infiltration of runoff storm detention.

(5) The high water level, based on a 100-year storm event, shall be noted on the preliminary plat and construction drawings. Easement area shall be based on one foot of freeboard above said high water level. Wet-bottom detention ponds shall have a 10 feet wide easement area around the perimeter of the pond to allow full access for maintenance and repair purposes. All easements shall connect to the public right-of-way.

(6) Staged outlet control of detention basins shall be required to insure discharge is restricted during both five-year and 100-year rainfall events.

K. Lot Drainage. Drainage swales shall be developed as necessary to ensure positive drainage away from each lot; such required drainage swales shall be preserved by an overland flowage easement. Vegetated areas shall have a two percent minimum slope to maintain positive drainage throughout each lot and the subdivision as a whole. Subsurface drainage shall be provided in such locations and manner as may be required by the City Engineer, which may include but is not limited to the rear lot lines of any or all lots.

L. Erosion Control. Erosion control improvements shall be installed in and along all surface drainage channels to reduce flow velocities and protect channel bottoms and banks from scouring and cutting, and at storm sewer outfalls and discharge points, in whatever matter and extent that the City Engineer finds necessary to prevent channel and sheet erosion to a reasonable extent. Such improvements may include, but are not limited to, drop structures, stilling basins, check dams, placement of rip-rap and weirs.

M. Off-Site Discharge. If it is necessary to discharge a concentration of surface runoff onto an adjoining property, provisions shall be made to dissipate the erosive energy from said concentration of runoff and to maintain the general drainage pattern as it existed prior to construction of the subdivision improvements. It shall be the developer's responsibility to acquire permanent easements from the adjoining property owner.

N. Extension to Boundary. Storm sewers and appurtenances thereto shall be extended to the boundary of the plat of subdivision where necessary for collecting and/or discharging runoff as determined by the City Engineer.

10. Franchise Utilities. All public utility lines and appurtenances thereto; including, but not limited to, electrical, gas, and telecommunication lines; shall be buried underground within public utility easements provided for said public utilities in accordance with City code. The developer shall be responsible for making the necessary arrangements with each of the serving utilities to comply with this requirement, including payment of any construction or installation charges or fees by any utility company.

11. Sidewalks. Public sidewalks with a minimum width of five feet are required along the frontages of all public streets and along both sides of all common private access drives, unless alternative routing such as a rear lot walkway or open space trail system is approved by the City Council on a valid preliminary plat. The developer shall be responsible for constructing two ADA-compliant ramps and the common square at each corner of all intersections, unless otherwise specifically approved on the preliminary plat. The developer shall be responsible for constructing all sidewalks within the subdivision that do not front on a buildable lot as a plat improvement. The developer shall be responsible for constructing sidewalks across drainage swales or flow paths where a depressed sidewalk is required to maintain unobstructed flowage. The developer shall be responsible for constructing public sidewalks along arterial streets and parkways as a subdivision improvement. A sidewalk performance bond shall be posted for all sidewalks not constructed with the subdivision.

12. Recreational Trails.

A. Where access to a regional or municipal trail is reasonably available, the developer shall be responsible for installing a 10-foot wide PCC trail connector from the public sidewalks within the subdivision to the regional or municipal trail as a subdivision improvement. The trail connector shall be located in a minimum 20 feet wide lot that is dedicated to the City.

B. Where a recreational trail is designated along an arterial or collector street in front of any multiple-family residential, commercial or industrial lot, the developer shall be responsible for paving the 10' wide PCC trail along said lots, along with associated ADA-compliant ramps at designated crosswalks.

C. In accordance with the Comprehensive Plan or other applicable plan, all required recreational trails shall be paved to a minimum width of 10 feet when located within a park or open space corridor, or a width of 10 feet when located within or in proximity to a street right-of-way, and shall be constructed of PCC unless an alternative material is approved by the City Engineer. Base preparation and all other construction specifications shall be fully compliant with SUDAS.

D. Costs; Responsibilities. When paving of a recreational trail is not the responsibility of the developer, the developer shall grade a platform to accommodate future trail construction. When recreational trails are constructed by the developer as a subdivision improvement, the developer shall be responsible for all construction costs. In certain unique circumstances, the City Council may agree to allow the construction of the trail to be deferred until a building permit is issued for specific lots, the requirement for the property owner of said lots to pave the recreational trail shall be noted on the final plat, including specifications for the type, width, and thickness of pavement.

13. Cluster Mailboxes. All lots in all subdivisions shall be served by a cluster box unit ("CBU"); private mailboxes serving individual lots shall not be permitted in new subdivisions. The developer shall be responsible for paving an ADA compliant Portland Cement Concrete pad and the accessory four feet wide sidewalk that connects to the public sidewalk system and curb. The developer shall be responsible for making the necessary arrangements with the United States Postal Service, including but not limited to obtaining approval from the Postmaster and the Public Works Director for the CBU locations prior to submitting construction drawings for subdivision improvements. The developer shall be responsible the cost of providing and installing each CBU and associated sidewalks as a subdivision improvement.

14. Street Lights. The developer shall cause plans and specifications to be prepared for street lighting on all new public streets within the subdivision, for approval by the City Engineer and MidAmerican Energy or Midland Cooperative and their successors in interest. Upon approval of said plans and specifications, the developer shall cause the lights to be installed in accordance with said plans and specifications, as part of the required subdivision improvements along all streets in the subdivision, all in accordance with City street lighting policies, SUDAS, and the Manual on Uniform Traffic Control Devices (MUTCD). Street lights shall be designed to prioritize lighting of intersections, turn lanes, and major access points, including park and school entrances and shall not be more than 300 feet apart. Wooden poles and overhead wiring shall be prohibited.

15. Street and Traffic Control Signs and Markings. Street name signs; traffic-control signs including but not limited to speed limit signs, stop signs, and no parking signs; and pavement markings are the responsibility of the developer as subdivision improvements and shall be designed and shown on all construction documents. Said improvements shall be provided at all new intersections within and bordering the subdivision, and traffic control signs and pavement markings including parking prohibitions and restrictions shall be installed and provided along all streets in the subdivision, all in accordance with SUDAS and the Manual on Uniform Traffic Control Devices (MUTCD). Street name signs and traffic control signs shall be installed by the City and shall be reimbursed by the developer to the City prior to acceptance of the public improvements.

16. Easements. Easements shall be provided for all subdivision improvements that serve or benefit more than one property owner, to enable access to, use of, service from or by, operation, maintenance and any and all other benefits that may be obtained from or provided by such improvements. Subdivision improvements for which easements shall be provided include but are not limited to those improvements that are to be dedicated to the City, other governmental entity, or an owners' association. Easements for improvements being dedicated to the City shall be dedicated by legal instrument on the City's standard form for such easements, in addition to being drawn on the final plat that is made of record. The developer shall make no changes to the requirements and responsibilities defined in the City's forms.

A. Buffer Easement. Easements for buffer areas required by Zoning Code and/or as shown on previously approved documents. Buffer easements shall clarify the homeowners' association or property owners' association shall be responsible for perpetual maintenance and replacement of plant materials and all other elements of the buffer.

B. Conservation. Easements as may be required in accordance with the Comprehensive Plan to retain land or water areas predominantly in their natural, scenic, open, wooded, and/or topographic conditions; or retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing slopes and land use.

C. Monument Sign. Easements for monument signs used to designate or identify a subdivision, residential neighborhood, group of businesses or business park shall be of sufficient size to include the monument sign, lighting for said sign, and associated landscaping but shall be designed to exclude any required vision triangles at intersections or access locations. Monument signs shall not be permitted to have changeable lettering and this limitation shall be noted in the easement document and shall be enforceable whether or not so noted. Such easements shall stipulate that the monument sign, along with lighting and landscaping are private improvements and shall be perpetually repaired and maintained by the property owners and not the City.

D. Municipal Utilities. Easements for sanitary sewers, storm sewers, and water mains shall have a width that is not less than twice the depth of the pipe as measured between the finished ground surface and flow line of the sewer or main, or 30 feet, whichever is greater. Easements shall be centered over the sewer or main, unless an alternative alignment is stipulated by the City Engineer. Easements for municipal utilities shall not be overlapped by easements for public or private utilities, including, but not limited to, electricity, natural gas and telecommunications, unless allowed by the City Engineer. Easements shall be designed and located such that the City shall have reasonable access to the easement area across abutting properties as approved by the City Engineer. In the case where municipal utilities are located beneath the pavement of a private street or alley, the easement for said public utilities shall specifically state that the City shall not be responsible for removal and/or replacement of the street pavement should utility repair, replacement, upsizing, or similar work be deemed necessary by the City.

E. Parkway Easement. Easements along designated Parkways shall be a minimum of 15 feet wide and shall require the property owner, or owners' association if applicable, be responsible for perpetual maintenance and

replacement of parkway trees and planting. The easement shall permit the City or its agents to install amenities such as benches, signage, and lighting which the City shall be responsible to maintain.

F. Public Utilities. Easements for the mutual and nonexclusive use of all public and private utilities, including, but not limited to, electricity, natural gas, and telecommunications, shall be provided to serve all lots and condominium units, and as necessary to energize street lights, unless an acceptable alternative is submitted to and approved by the City Attorney prior to the filing of a final plat. Such easements shall be a minimum of 10 feet in width when located along front or rear lot lines, and a minimum of five feet in width when located along side lot lines, and shall not overlay or overlap any easement for public infrastructure, surface drainage, stormwater management or recreational trails except with the express approval of the City Engineer.

G. Recreational Trails. Easements for recreational trails shall be 30 feet or more in width unless the paved portion of the walkway or trail is located within or in close proximity to a public street right-of-way, in which case the City Engineer may allow the easement width to be reduced. Said easements shall be a minimum of 10 feet away from any building or 4-foot side yard, other structure, or parking lot on the site with such setbacks established on the applicant's final plat of the affected property or properties. The City shall restore any land disturbed by maintenance or reconstruction, provided however, the owner of the property shall be responsible for all trimming, planting and maintenance of vegetation including the responsibility to keep the recreational trail unobstructed, and passage unimpeded by vegetation.

H. Shared Access or Ingress/Egress. Easements shall be provided in accordance with whatever location, size, configuration and dimensions as approved on the Preliminary Plat or Site Plan in order to achieve and implement shared access to public streets, improve vehicular circulation in the area as a whole, permit Public Works access for maintenance of public improvements and private fire hydrants, and facilitate emergency access to properties. Such easements shall stipulate that the private street, driveway, roadway, or access shall be perpetually repaired and maintained by the property owner and not the City.

I. Stormwater Detention. Easement and Maintenance Agreements for stormwater detention shall require the owners' association; or only in certain unique circumstances as may be approved by Council, the owner of the property on which the easement is located; to have perpetual responsibility for the repair and maintenance of all facilities associated with the detention basin or pond; including storm sewer pipes and structures unless the City has agreed to accept ownership of said pipes and structures in which case said pipes and structures shall be located in a separate storm sewer easement. In cases where the responsible parties fail to perform necessary maintenance as required by the City, the stormwater detention easement shall allow the City to make any necessary repairs or maintenance and assess the responsible parties for such work. Where a detention basin is maintained by multiple lots or parcels, said assessment shall be prorated to all responsible property owners by the City Engineer based on the area and use of each the lot or parcels, whether or not the shared maintenance responsibilities are under the control of an owners' association, unless otherwise stipulated in the easement document. The

Maintenance Agreement shall require annual reporting to the Public Works Director to ensure compliance with the agreement. Covenants shall not be considered an acceptable alternative to an easement.

J. Surface Water Flowage. Easements for surface water flowage shall also include storm sewers, subdrains, and appurtenances thereto as a permitted purpose and use, in the event that storm sewers may be necessary at some future date. Surface water flowage easement shall require the property owner to maintain all embankments and make repairs related to erosion and shall grant the City the right, but not the obligation, to remove drainage obstructions. Based on prior approval of the Public Works Director, such easements may permit fences to be constructed provided the design of the fence includes appropriate gaps and/or clearance below the fence allowing for proper flow of drainage within the easement area.

K. Wastewater Treatment Facility Buffer. A buffer easement and agreement shall be provided for all areas located with 1,000 feet of the City's wastewater treatment facility or planned future facilities. Such easement and agreement shall include a waiver of separation distance for each lot located wholly or partially within said 1,000 feet buffer area. Such easement and agreement shall be recorded in such a manner that it will appear on the title opinion of each lot located wholly or partially within said 1,000 feet buffer area.

L. Other easements as may be deemed necessary by the City to sustain the development and/or public facilities.

17. Benchmarks and Datum Plane. The developer shall cause all subdivision and lot corners, points of curvature, et al., to be installed in accordance with the *Code of Iowa*. The developer shall cause a minimum of one permanent benchmark to be set, certified, and made of record by a land surveyor who is licensed in the State as part of the subdivision improvements for a plat of subdivision, unless the City Engineer determines that sufficient benchmarks exist within the general vicinity.

A. All survey, plats, construction drawings, GIS, and CAD files shall use survey feet based on the Iowa Regional Coordinate System Zone 9 Ames-Des Moines.

B. All survey elevations and construction drawings shall be based on benchmarks established on the North American Vertical Datum of 1988 (NAVD 1988).

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170.09 CONSTRUCTION OF IMPROVEMENTS.

1. All construction shall be in accordance with SUDAS, as defined herein, and applicable State and City codes.

2. Pre-construction Conference and Permits. A pre-construction conference shall be scheduled by the City Engineer and attended by the developer's engineer, contractors and subcontractors, and others as deemed appropriate. The developer is encouraged to attend said conference. The developer's engineer shall provide a copy of all approved permits to the City Engineer prior to the pre-construction conference being scheduled, unless otherwise approved by the City Engineer, provided however that construction shall not commence until the appropriate permits have been approved by the applicable federal, State, or local agency.

A. The developer and his contractors shall be responsible for ensuring construction is in conformance with the approved construction drawings, SUDAS, and project-specific information provided to the contractors and/or discussed at the pre-construction conference, including but not limited to the Contractor Check List.

B. No grading permit shall be issued for any property that the developer intends to subdivide until the Preliminary Plat has been approved by City Council and construction or snow fence has been installed in accordance with said plat.

3. Construction Observation. Construction observation is deemed necessary to assure quality workmanship on all portions of the construction of plat improvements. Construction observation services shall be provided by the Public Works Department or, at the direction of the Public Works Director, by the City Engineer. The developer shall be responsible for all costs associated with construction observation and testing services. The results from all tests required by SUDAS shall be bound into a Construction Observation Record and provided to the City Engineer for review. Moisture and density test locations shall be indicated on a map for reference and to confirm sufficiency of the number and location of such tests; all included in the Construction Observation Record. All storm sewers and sanitary sewers shall be televised and the City Engineer or authorized representative shall review the video of such televising and make a written report recommending any repairs to be made to said sewers prior to City acceptance of the project; said report to be included in the Construction Observation Report along with a digital copy of all televising, and re-televising if necessary. Once all construction has been completed, including necessary repairs and punch list work generated from a walk-through of the completed subdivision improvements, the professional engineer shall certify that construction of the public improvements has been completed in substantial conformance with the approved construction drawings and specifications and in accordance with SUDAS.

4. Materials Submittals and Shop Drawings. The developer's engineer shall review all materials submittals and shop drawings provided by the contractor and require revisions as necessary to ensure compliance with SUDAS and project specifications. A copy of all materials submittals and shop drawings, stamped as accepted by the developer's engineer, shall be provided to the City Engineer.

5. Performance Surety. The developer shall complete all subdivision improvements to the full satisfaction of the City Engineer and shall be ready for acceptance prior to City Council approval of the final plat.

A. In certain unique circumstances, the developer may request approval of the final plat prior to completion of the public improvements provided the developer posts a performance surety ("surety") with the City to guarantee that the uncompleted subdivision improvements will be satisfactorily completed within not more than one calendar year after the date of the City Council's approval of the final plat. The posting of surety shall not be deemed to constitute or ensure the City's acceptance of any improvements, either upon posting of the surety or at any future date; approve the issuance of building permits, or of certificates of zoning compliance or occupancy; or approve the expenditure of City funds within any part of the subdivision.

B. The surety shall be provided in the form of a performance or subdivision bond, letter of credit, cash escrow held in City trust account or other collateral that is acceptable to City Attorney and approved by the City Council, and shall be of an amount that the City Engineer determines to be necessary and sufficient to cover all of the City's costs for constructing the uncompleted subdivision improvements, including inspections and tests that customarily would be conducted by the City, at some future date.

C. The surety shall remain in full force and effect until the subdivision improvements have been completed to the satisfaction of the City Engineer, and have been accepted by the City Council, provided that surety may be called by the City for any subdivision improvements that have not been completed within six years after the date of City Council approval of a final plat without any further finding beyond the factual passing of such date, and further provided that surety that is not called at such time shall not be deemed to have been released or voided. Maintenance bonds for completed work shall be provided in accordance with Subsection 5 of this section.

D. Sidewalk surety. Separate surety shall be provided for all public sidewalks that have not been constructed at the time of final plat approval. The surety for sidewalks along arterial streets shall be based on 100 percent of the total cost of installation, including inspection and testing and shall be in the form of cash escrow only. Surety for sidewalks along collector and local street frontages of lots being platted shall be calculated at 15 percent of the total cost of installation, including inspection and testing. The surety shall guarantee that all sidewalks that are not constructed within four years of final plat approval shall be constructed within 90 days unless an extension is granted due to weather. The 15 percent surety shall remain in place until the value of the uncompleted sidewalks is reduced to the value of the surety. At that point, the value of the surety can be reduced as sidewalks are completed. Sidewalk surety shall not be totally released until all sidewalks in the plat are completed.

6. Maintenance Bonds.

A. The developer shall be responsible for ensuring their contractors warrant the design, material, workmanship, installation and construction of all of the subdivision improvements for a minimum of four years from and after satisfactory completion and City Council acceptance of roadway payment, sanitary sewers, storm sewers and other public improvements that are related

to drainage, and park infrastructure, and shall cause the warranty to be ensured by independent bond or by other collateral that is found to be acceptable by City Attorney (herein "bond"). The bond shall specifically ensure the expedient repair or replacement of any and all improvements that the City Engineer finds to be defective following completion and acceptance, and shall indemnify and hold the City harmless from any and all costs or losses resulting from, attributed to or otherwise arising from the defective improvements. The start date of the maintenance bond shall be the date of City Council resolution accepting the public improvements.

B. The City Council may, based on the recommendation of the City Engineer, require any bond to run for a duration of more than four years, and to be posted in a greater amount, in lieu of immediate replacement and reconstruction of any improvement that is not fully compliant.

7. Acceptance of Completed Public Improvements.

A. Provision of record drawings as required by Section 170.11, Subsection 3 of this chapter, including digital ArcView shapefiles of Record Drawings, GPS coordinates for all utility fixtures and service stubs, and the developer's engineer's certification the as-built subdivision is in compliance with the approved stormwater management plan and grading plan.

B. Signed statement by a public land surveyor licensed in the State of Iowa certifying that all property corners have been set and grading has been completed according to the design approved by the City.

C. Provision of maintenance bonds as required by Section 170.09, Subsection 6 of this chapter for completed public improvements.

D. Provision of an Agreement to Complete as required by Section 170.08, Subsection 9(F) of this chapter obligating the developer to certify grading of City-owned detention facilities or pond, if any, at the time the subdivision is considered 80 percent developed.

E. Provision of Construction Observation Record as required by Subsection 3 of this section and materials submittals and shop drawings as required by Subsection 4 of this section.

F. Provision of a Service Locates Table listing the location of the end of the water service stub, sanitary sewer service stub, and storm sewer service stub serving each lot within the subdivision as measured from the nearest lot corner. A two feet by four feet board shall be buried at the end of each sanitary sewer and sump service line, installed from the end of the pipe invert up to the surface of the ground.

G. Payment in full of all fees associated with the plat of subdivision, including but not limited to fees related to construction observation services and testing.

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170.10 NEIGHBORHOOD SKETCH PLAN REQUIREMENTS.

1. When required by the City Manager or City Engineer, the developer shall provide a neighborhood sketch plan prior to platting the property. The purpose of the neighborhood sketch plan is to show conceptually on a drawing how a proposed plat or subdivision will be compatible with the potential development of adjoining lands in a manner that is compliant with the Comprehensive Plan, other approved neighborhood sketch plans or concept plans, zoning regulations, the requirements of this chapter, and other applicable land use plans, policies, and regulations of the City.

2. The boundary of the overall area to be covered by the neighborhood sketch plan shall be as required by the City Engineer.

3. Applications shall be made in the number of copies and format as set forth in Section 170.05, Subsection 10 of this chapter.

4. Contents of the Neighborhood Sketch Plan ("sketch plan").

A. Name and address of the developer and plan preparer.

B. A plan showing the location and boundary of the proposed subdivision and other properties to be included in the sketch plan; the name and address of the developer, property owners within sketch plan limits, and property owners abutting the sketch plan boundary, zoning classifications of properties within and abutting the sketch plan; existing and proposed land use of properties within and abutting the sketch plan.

C. A plan showing existing and proposed buildings, and planned use of all buildings, existing and proposed streets and classification of same, recreational trails, parks, open space, and buffers.

D. A grading plan including existing grades, based on LiDAR or USGS, based on a contour interval no greater than 10 feet; proposed grades at like interval; general location of floodway, floodway fringe, drainage ways, detention basins, and similar existing and proposed features.

E. A utility plan indicating the existing and proposed water mains and sanitary sewers of sufficient detail to clarify how each property within the sketch plan will be served and applicable sanitary sewer service areas.

F. The sketch plan shall be drawn and printed at a scale that is not smaller than one inch = 100 feet. Each plan sheet shall include a date of preparation, date of revisions, north arrow, and scale.

170.11 PLAT OF SUBDIVISION REQUIREMENTS. Applications for approval of a subdivision shall be submitted to the City Clerk, and shall include all plats, drawings, illustrations, plans, documents, and information that the City Engineer determines to be necessary to ensure that the proposed subdivision will comply with this Code and all other applicable codes and regulations, including, but not limited to, the following, in addition to payment of all fees specified by this chapter for the type of subdivision and any other administrative costs and impact fees that may be legally established by the City Council.

1. Preliminary Plat.

A. Preliminary plats shall be submitted for entire subdivisions, even if the developer intends to final plat the subdivision in more than one phase. If

approved by the City Engineer, exceptions may be made for parcels that are more than 160 acres in area or that have unique characteristics. By this requirement the City intends to ensure that every subdivision will, in its entirety, be optimized in all respects to protect and increase property values and public health, safety and welfare presently and in the future, particularly by optimizing vehicular and pedestrian circulation systems; the extension of infrastructure to establish connectivity at an early date, and facilitate the subdivision and development of other properties; and the locations and improvement of parks and open spaces, to efficiently serve and satisfy the needs of the subdivision and of the public as a whole.

B. One purpose of a preliminary plat is to determine whether the proposed subdivision appears to comply in preliminary, conceptual form with the requirements of this Code and its design standards. Accordingly, plat maps and drawings for the proposed subdivision are not required to be of construction-quality, but shall be of sufficient accuracy and detail to enable the City and its staff to determine whether the proposed subdivision appears to comply. The City hereby reserves final and binding determinations of compliance to rest with the City Engineer's review and approval of the detailed plans and specifications for the subdivision improvements, and with the City Council's approval of a final plat.

C. Applications shall be made in the number of copies and format as set forth in Section 170.05, Subsectin 10 of this chapter.

D. Contents of the Preliminary Plat. Multiple plan sheets to clearly convey the required information, including, but not limited to:

(1) A cover sheet containing the name of subdivision, name and address of the property owner and developer, legal description for the real property that is proposed to be subdivided, area of subdivision, professional certifications, vicinity map, zoning classifications of the property with boundary lines between districts where applicable, and other project information that may be pertinent to review as determined by the City Engineer.

(2) The vicinity map shall be at a legible scale that shows the boundaries of all parcels located within 300 feet of the plat boundary, land use and zoning of all parcels, parcel address for each parcel, property owner names for each parcel along with address if different than parcel address.

(3) A dimension plan, including lot and outlot dimensions, areas, and building envelopes; intended purpose for each outlot; required easements, setbacks, street rights-of-way and roadway widths; access controls; recreational trails, sidewalks and ramps; buffer locations; designations of parcels and rights-of-way that are proposed to be dedicated to the City, other governmental entity or for common ownership and use by persons as designated by the plat documents that are included in the preliminary plat submittal.

a. Bearing and distance data, with curve data provided in a table, shall be provided for the subdivision boundary and for each planned phase, if phasing is proposed.

b. Pavement thickness and reinforcing materials shall be noted.

c. Access restrictions, such as no private driveways shall be permitted to connect to arterial or collector streets, must be noted on the preliminary plat. Single-family lots shall be limited to no more than one driveway, except on certain corner lots.

d. All existing streets and driveways on the opposite side of the existing public or private street from the subdivision shall be shown for review of access spacing and alignment. Existing street centerlines and lane lines shall be shown.

e. Existing sidewalks shall be shown to ensure proper extension.

(4) A grading plan, including proposed overland drainage routes, detention basins, aquifer recharge areas, and erosion control measures. Floodway and floodway fringe boundaries, base flood elevations ("BFE"), minimum floor elevations (MFE) as defined and required by the Federal Emergency Management Agency ("FEMA"), together with any areas of localized flooding or wetland. If no FEMA-determined flood hazard areas, areas of localized flooding or wetlands existing within the subdivision plan, the developer's engineer shall certify on the preliminary plat that no such areas exist. The City Engineer may require minimum opening elevations (MOE) to be defined where lots may be impacted by detention and/or drainage facilities based upon 1 foot above the HWL during 100-year storm event.

a. Existing features, including buildings, wells, and septic systems, shall be shown on the grading plan. A demolition plan may be required to clarify intent.

b. The subdivision shall be designed to preserve existing trees to the extent possible in accordance with the Tree Ordinance. Existing trees and tree driplines shall be shown. Trees to be removed shall be identified. Trees to be protected shall be identified and delineated by construction fence or snow fence, unless otherwise approved by City Council.

c. The concept for drainage and detention should be illustrated on the grading plan.

d. Proposed grading for parks and trails shall be shown on the grading plan.

(5) A utility plan indicating the existing and proposed water mains and fire hydrants, sanitary sewers, and storm sewers; including size of each. The utility plan may be combined with the grading plan if the proposed subdivision is not of such size, complexity or nature as to necessitate separate sheets to appropriately depict such improvements. The source of water supply and wastewater disposal service shall be noted. Storm sewers and stormwater management facilities shall be denoted as public or private.

(6) Each plan sheet shall include the boundary of the plat of subdivision in a heavy line and, if phasing is proposed, the boundaries of each phase shall be clearly marked on all sheets.

(7) The preliminary plat shall be drawn and printed at a scale that is not smaller than one inch = 50 feet. Each plan sheet shall include a date of preparation, date of revisions, north arrow, and scale.

(8) The preliminary plat shall be certified by a professional engineer licensed in the State of Iowa.

E. Accompanying Documents. Accompanying documents and information shall include:

(1) Payment in full of all fees in accordance with Section 170.13 of this chapter or as subsequently set by resolution of the City Council, together with payment of any other administrative costs and impact fees that may be legally established by City Council.

(2) A letter, signed by the developer and his engineer, requesting that City Council waive each of the proposed variations from the regulations included in this code, including but not limited to design standards specified in Section 170.08. Variations indicated on the plans but not formally requested in said letter shall not be deemed as granted. A traffic study may be required at the sole discretion of the City Engineer, for such matters and of such scope that may be directed by the City Engineer.

(3) Soil tests and geotechnical report shall be required to ascertain whether expansive soils or other conditions exist that may affect the suitability and design of the subdivision and subdivision improvements, which have been certified by a professional engineer licensed in the State of Iowa.

2. Construction Drawings

A. Applications shall be made in the number of copies and format as set forth in Section 170.05, Subsection 10 of this chapter.

B. The submittal shall include all drawings, plans, profiles, specifications and references to SUDAS, special conditions, and supplemental information for all proposed subdivision improvements and shall be certified by a professional engineer licensed in the State of Iowa.

C. The developer’s engineer shall be solely responsible and liable for ensuring that the construction drawings and specifications are fully compliant with the requirements of this chapter and all other applicable requirements and permits in accordance with Section 170.05-3-B(7) herein.

D. The submittal shall include a stormwater management plan in conformance with SUDAS and shall be certified by a professional engineer licensed in the State of Iowa.

E. The submittal shall include a public street light layout plan that is designed based on the City’s streetlight design standards; including fixture type, mounting height, pole type, and pole height; as appropriate. The street light layout plan can be a separate plan, rather than included in the plan set for

the public improvements, provided the public streetlights will be installed by the service provider rather than the developer's contractor.

F. In cases where a landscape buffer or other plant materials are required in accordance with the Zoning Ordinance or approved Master Plan and/or Preliminary Plat, the construction drawings shall include a planting plan detailing the location, species, and size at planting, and size at maturity of all plant materials. Plant materials shall be installed as a subdivision improvement or their installation guaranteed by a performance surety.

G. The construction drawings shall be drawn and printed at a horizontal scale that is not smaller than one inch = 50 feet and, where applicable, a vertical scale that is not smaller than one inch = five feet. Each plan sheet shall include a date of preparation, date of revisions, north arrow, and scale.

H. Payment in full of all fees related to the review of the construction drawings, stormwater management plan, and all supplemental information by the City Engineer or his authorized agent in accordance with Section 170.13 of this chapter or as subsequently set by resolution of the City Council.

I. The submittal shall include a copy of the application forms for all required permits including, but not limited to, permits from Iowa Department of Natural Resources and Iowa Department of Transportation for review and approval by the City Engineer. The developer shall be solely responsible for obtaining approval of all necessary federal, State, and local permits.

3. Record Drawings.

A. As-built record drawings shall be submitted for approval by the City Engineer prior to acceptance of the public improvement by the City Council.

B. Record drawings require certification by a professional engineer licensed in the State of Iowa.

C. Certified as-built grading drawings shall be submitted verifying the as-built elevations of critical locations on the site, to include verification of all spot elevations shown on the public improvement construction drawings; including but not limited to the rear corners, the mid-point of the side yard lines, the front lot corners where the stormwater flows from the rear yard to the front yard, overflow locations, and along the proposed drainage ways and easements; sanitary sewer manholes; and all stormwater management facilities including but not limited to detention areas, intakes, structures, sub-drain cleanouts, and flared end sections; are in compliance with the approved grading plan. The as-built grading drawings shall include spot elevations along the flowline of drainage swales and ditches at each property line and sufficient spot elevations around the perimeter of detention basins and ponds to confirm volume.

D. Elevations shall be within 0.2 feet of the approved grading plan. The location of all utility fixtures and the end of all utility service lines shall be labeled with survey-grade coordinates.

E. A certification statement signed by the applicant's engineer and land surveyor indicating that the grading and stormwater management facilities were constructed as designed and in accordance with the approved construction drawings and Stormwater Management Plan shall also be submitted.

4. Final Plat.

A. Applications shall be made in the number of copies and format as set forth in Section 170.05, Subsection 10 of this chapter. The developer shall be responsible for additional copies for approval as may be required by Polk County for recording purposes.

B. Contents of the Final Plat. The final plat application shall at a minimum consist of the following to be considered to be a complete submittal, provided, however, that the City Engineer allow minor exceptions that preserve the intent and purpose of the submittal:

(1) The name under which the subdivision will be recorded, compass point, scale, property owners name and address, applicant's name and address, engineer's and/or land surveyor's name and address, and date;

(2) Complete metes-and-bounds legal description of the area being platted, including acreage, with boundary depicted by a heavy line and said boundary shall be accurately tied to a minimum of two section corners;

(3) All proposed monumentation as required by Chapter 354 of the *Code of Iowa*, shall be designated on the plat and a legend provided describing said monuments and the date the monuments were or will be set;

(4) All parcels of land that are to be dedicated to the City or an owners' association for street or alley rights-of-way, walkways, parks or open space, school property, or other public uses shall be clearly shown, labeled with a lot letter and lot area, and described by bearings and dimensions, and the plat shall include a certified statement by the proprietor that said parcels are intended for and being dedicated by the proprietor for such uses;

(5) All parcels of land that are to be considered as buildable lots shall be clearly shown, labeled with a lot number and lot area, and described by bearings and dimensions;

(6) All parcels of land that are intended to be set aside for future development, or are considered undevelopable, and shall not be considered buildable lots until said parcel has been re-platted shall be clearly shown, labeled with an outlot letter and lot area, and described by bearings and dimensions;

(7) Setback lines shall be shown along the street frontages of all lots and outlots, and any other locations where deemed appropriate by the City Engineer, at locations that are equal to or greater than the minimum setback requirements of the Zoning Code;

(8) All existing and proposed easements shall be clearly drawn and labeled, and the centerlines or boundaries thereof shall be described by dimensions and bearings for each segment, with book and page noted for existing easements;

(9) Floodway and floodway fringe boundaries, base flood elevations (BFE), minimum floor elevations (MFE), minimum opening

elevations (MOE) and other minimum or maximum elevations as may be required by the City Engineer shall be noted for each lot on the final plat or engineer's exhibit;

(10) Access and other restrictions imposed by the City shall be noted for each lot; and

(11) The final plat shall be certified by a public land surveyor licensed in the State of Iowa. When the final plat or an attached exhibit contains information related to engineering items, said plat or exhibit shall be certified by a professional engineer licensed in the State of Iowa.

C. Accompanying Documents. Accompanying documents and information shall include the following, all properly executed and notarized as may be appropriate to the document:

(1) An application fee, in the amount in accordance with Section 170.13 of this chapter or as subsequently set by resolution of the City Council, together with payment of any other administrative costs and impact fees that may be enabled by the *Code of Iowa* and legally established by the City Council;

(2) Warranty deeds for all street rights-of-ways and other parcels that are to be dedicated to the City, and quit claim deeds for all existing street rights-of-way that adjoin the subdivision and that are not clearly held by the City in fee simple title, all said deeds to be submitted on a form acceptable to the City Attorney.

(3) Easements documents and other legal documents using the City's standard forms for such purposes, if available, to establish easements for shared accesses, public or common private infrastructure including walkways and similar purposes; to create an owners' association or similar entity, if determined to be necessary to own, possess, operate or maintain common private infrastructure; hold-harmless agreements; development agreements; and other purposes as deemed necessary to fully comply with this Code;

(4) Maintenance bonds for all subdivision improvements that have been completed to the full satisfaction of the City Engineer, and surety for any subdivision improvements that are incomplete;

(5) Sidewalk bond for all sidewalks not constructed as a subdivision improvement.

(6) Engineering Exhibit, if applicable, for recordation with the Final Plat.

(7) Prior acceptance of the completed public improvements or approved surety or agreement to complete as specified in this chapter.

(8) Payment for all fees and charges due to the City for inspection of the subdivision improvements and review of the subdivision improvement plans and specifications; connection fees and other impact fees; assessments for streets and other improvements; reimbursements for water mains; and any other costs and financial obligations have been paid in full;

(9) Documentation showing that the developer has arranged and paid for the installation of streetlights, street name and traffic-control signs; and

(10) All attachments to subdivision plats as required by Chapter 354.11 of the *Code of Iowa* or contents of declaration as required by Chapter 499B.4 of the *Code of Iowa*, development agreements, covenants and declarations establishing an owners' association, and any other attachments, declarations, certifications or other documents that may be required as a matter of the filing of a plat whether by the *Code of Iowa* or the City, have been submitted to, and reviewed and approved by the City Manager.

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170.12 PLAT OF SURVEY OR ACQUSITION PLAT REQUIREMENTS.

1. Applications shall include payment of all fees in accordance with Section 170.13 of this chapter or as subsequently set by resolution of City Council, together with payment of any other administrative costs and impact fees that may be legally established by City Council.

2. Applications shall be made in the number of copies and format as set forth in Section 170.05, Subsection 10 of this chapter.

3. The plat of survey or acquisition plat shall be an exact duplicate of the plat proposed to be filed for record in the Polk County Recorder's office.

4. The City Engineer may require any remnant parcels to be platted as part of the plat of survey in order to ensure said remnant parcels shall conform to the Zoning Code and other applicable codes after the parcel is subdivided.

5. Contents of the Plat of Survey or Acquisition Plat. The plat shall comply with the *Code of Iowa*, specifically Chapter 354, and including, but not limited to:

A. A parcel letter or number designation approved by the County Auditor. A lot designation of any street right-of-way to be platted.

B. The names and addresses of the proprietors.

C. A heavy line indicating the boundaries of each parcel; addresses for each parcel; a legal description for each parcel including distances, bearings, boundary angles, and curve data in a table; total area of each parcel in acreage and square feet; and front yard setbacks, and rear yard setback.

D. Bar graph scale, and compass point; current zoning districts.

E. Street name, location, right-of-way width, and centerline of all streets within or adjoining the plat.

F. Existing features, including but not limited to buildings, wells, and septic systems, and dimensions as necessary to demonstrate compliance with setbacks and other zoning code requirements.

G. Floodway and floodway fringe boundaries, base flood elevations (BFE), and minimum floor elevations (MFE) shall be accurately and clearly plotted on the plat of survey from the best available information, as defined and required by the Federal Emergency Management Agency (FEMA). If no FEMA-determined flood hazard areas, areas of localized flooding or wetlands exist within the plat, the developer shall so certify on the plat.

H. Existing and proposed easements in accordance with this chapter.

I. Access restrictions and other restrictions shall be noted for each parcel.

J. Certification by a public land survey licensed in the State of Iowa; date of survey, and revision dates.

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170.13 FEES.

1. Application Fee. An application fee shall be paid for each development application in an amount that shall be established from time to time by resolution of the City Council. A check, payable to the City, shall be submitted to the City Clerk at the time of initial submittal of the application.

2. Engineering Review Fees. The developer shall be responsible for reimbursing the City for the cost of reasonable professional fees for services provided by a consulting engineer designated by the City for their review of preliminary plats, final plats, plats of survey, acquisition plats, auditor's plat, construction drawings, stormwater management plans, geotechnical reports, engineering exhibits, legal descriptions, and similar documents prepared by the applicant's engineer and/or surveyor. A check, payable to the City, shall be submitted to the City Clerk prior to final approval of the development application that was reviewed.

3. Traffic Impact Study. When a Traffic Impact Study is required, the developer shall be responsible for reimbursing the City for the cost of reasonable professional fees for services provided by a consulting engineer designated by the City, based on a scope of services approved by the City Engineer. A check, payable to the City, shall be submitted to the City Clerk prior to any work being commenced on said study.

4. Construction Observation Fees. The developer shall be responsible for reimbursing the City for the cost of reasonable professional fees for services provided by the City Public Works Department or a consulting engineer designated by the City for construction observation of the public improvements as depicted on the construction drawing prepared and certified by the applicant's engineer, review of all testing and results, and making a recommendation to City Council regarding acceptance of the public improvements. A check, payable to the City, shall be submitted to the City Clerk prior to City Council acceptance of the public improvements for the subdivision.

5. City Attorney Review Fees. The developer shall be for reimbursing the City for the cost of reasonable professional fees provided by the City Attorney for their preparation or review of various legal documents associated with the development application, including but not limited to development agreements, warranty deeds, title opinions, mortgage and lien holder releases, consents to plat, easement documents, performance and maintenance bonds or sureties, and similar documents prepared by the applicant's attorney. A check, payable to the City, shall be submitted to the City Clerk prior to final approval of the development application or document that was reviewed.

6. Recording Fees. The developer shall be responsible for recording the final plat and all accompanying material including but not limited to easement documents and agreements. If the City Manager deems it necessary for the City Clerk to record any documents, the developer shall pay to the City all costs for recording said documents prior to issuance of building permits.

7. Street Signs. The developer shall be responsible for reimbursing the City for the cost of all street signs installed in the subdivision by the City Public Works Department. A check, payable to the City, shall be submitted to the City Clerk prior to City Council acceptance of the public improvements.

8. Non-Refundable. Fees paid to the City in accordance with this section shall not be refunded after the initial submittal has been distributed to various City departments

for review or other costs have been incurred by the City. Denial of approval of a development project shall not entitle the applicant to a refund.

170.14 VARIATIONS AND EXCEPTIONS.

1. Whenever the tract proposed to be subdivided is characterized by unique and unusual topography, size, or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardships or injustices that are not self-created by the developer, the City Council, upon recommendation of the Commission, may vary or modify such requirements so that the subdivider is allowed to develop the property in a reasonable manner; but so, at the same time, the public welfare and interest of the City and surrounding area are protected and the general intent and the spirit of this chapter are preserved.

2. Any such variation or exception shall be limited to the minimum relief that is necessary for a subdivision that creates lots for reasonable development of the real property. Variations or exceptions that may be indicated on the plans but have not been formally requested shall not be considered as approved.

3. The request for such variation or exception shall be provided by the developer in writing and filed with the City Engineer prior to or concurrently with the filing of a preliminary plat. The request shall be reviewed by the City Manager and City Engineer, and a joint recommendation made to the Planning and Zoning Commission as part of the staff report for action on the preliminary plat, or in like manner if filed prior to the preliminary plat.

4. The Commission shall act on the request concurrently with the preliminary plat, or in like manner if filed prior to the preliminary plat, and the Commission and staff recommendations shall be forwarded to the City Council for consideration and action concurrently with the preliminary plat, or in like manner if filed prior to the preliminary plat.

170.15 VALIDITY AND EXPIRATION.

1. Validity of Preliminary Plat.

   A. A preliminary plat that has been approved in accordance with this code shall remain valid for two calendar years after the date upon which the City Council approved the preliminary plat, and its validity and approval shall thereafter expire unless a final plat has been submitted in accordance with this section expressly, and in accordance with this code as a whole, or unless a time extension has been approved in the manner provided by this section.

   B. During its time of validity, the developer shall cause construction drawings for subdivision improvements to be prepared and submitted for review and approval by the City Engineer, and a final plat to be filed for one or more phases of the preliminary plat as had been designated on the approved plat, or for the entire preliminary plat.

2. Expiration of Preliminary Plat.

   A. Failure to file a proper and complete final plat submittal with the City Engineer within two calendar years from the date of approval of the preliminary plat shall render said preliminary plat approval null and void, unless the preliminary plat's validity has been extended in accordance with this section.

B. A final plat submittal shall not be deemed to be properly filed unless the City Council has first approved the construction drawings for subdivision improvements for the real property that is included in the final plat. It shall be the developer's duty to ensure said plans and specifications are filed with the City Engineer sufficiently in advance of the preliminary plat's expiration to enable the plans and specifications to be reviewed, and revised to whatever extent that may be necessary to attain full compliance with all applicable requirements and approval by the City Council upon recommendation of the City Engineer.

C. Time Extension For a Preliminary Plat.

(1) The approval and recording of a final plat for one phase of a valid preliminary plat shall be deemed to automatically extend the validity and approval of the remainder of the preliminary plat for a period of one calendar year beyond the date of the City Council's approval of such final plat. For plats having more than two phases, the validity of the preliminary plat shall be automatically extended one year each time the City Council approves a final plat within the boundary of the approved preliminary plat.

(2) The City Council may, upon request from the developer and following review and recommendation by the Planning and Zoning Commission, re-approve and thereby grant a time extension for a valid preliminary plat, but only if the preliminary plat and the subdivision improvement plans and specifications are updated to comply with and conform to all codes, regulations, requirements and specifications that have been revised or adopted since the original date of approval of the preliminary plat.

3. Expiration of Construction Drawings. Approval of the construction drawings by resolution of the City Council shall be null and void if construction of the actual improvements, other than clearing and grading, has not commenced within one year of the date of said resolution.

4. Expiration of Final Plat. Approval of a final plat by resolution of the City Council, the developer shall fully satisfy any and all conditions of such approval and all provisions of this code, and shall cause the final plat to be properly submitted for filing of record in the offices of the appropriate County Recorder, Auditor and Assessor, within 180 days of the date of the City Council's resolution; noncompliance shall render the City Council's approval and resolution to be null and void.

5. Expiration of Plat of Survey or Acquisition Plat. Approval of a plat of survey or acquisition plat by resolution of the City Council, the developer shall fully satisfy any and all conditions of such approval and all provisions of this code, and shall cause the plat to be properly submitted for filing of record in the offices of the appropriate County Recorder, Auditor and Assessor, within 180 days of the date of the City Council's resolution; noncompliance shall render the City Council's approval and resolution to be null and void.

170.16 VIOLATIONS AND ENFORCEMENT.

1. Serial or chain land divisions, whereby three or more interests are created from a single parcel of land or other corporal real property through two or more acts of

subdividing a parcel, shall not be allowed, and shall be deemed a violation of this code. Such violation shall be remedied only by the preparation of a Plat of Subdivision covering all of the original, single parcel of land or other corporal real property and complying with all of the requirements of this code for a proprietor's plat, including, but not limited to, the construction and dedication of public or common infrastructure; dedications of right-of-way; mitigation of impacts by dedications, provision of infrastructure or payment of fees; payment of or otherwise resolving liens, taxes, judgments and other encumbrances upon the title; payment of all customary administrative fees; and full satisfaction of all penalties set forth in this Code of Ordinances and the *Code of Iowa*.

2. Permits shall not be issued for any development, or building or other structure, on any lot, parcel or other interest that is created by a serial or chain subdivision, or by any other subdivision that is not fully compliant with this Code of Ordinances.

3. Permits shall not be issued for any development, building or structure, on any lot, parcel or other real property interest that is part of or is being created by a subdivision, until:

A. All subdivision improvements have been satisfactorily completed in accordance with all development agreements and approved plans and specifications, as solely determined by the City Engineer;

B. All requirements of this code, including the provision of surety and maintenance bonds, have been fully satisfied;

C. All fees and costs have been paid in full for City services provided to the subdivision during its development, including, but not limited to, fees for City inspections and reimbursement for testing or other costs; and

D. The subdivision and accompanying documents have been properly and satisfactorily filed for record in the offices of the appropriate County Recorder, Auditor and Assessor.

4. No certificate of occupancy or of zoning compliance shall be issued unless and until the subdivision has been properly recorded and public improvements accepted in full compliance with this code.

5. No plat, declaration, or other instrument for any subdivision shall be submitted to the County Recorder, Auditor, or Assessor filing for recording, or have any validity, unless and until the City Engineer certifies in writing that the plat, declaration, or instrument has been found to be in full compliance with the requirements of this chapter. City funds shall not be expended for improvements to or maintenance of any street or other infrastructure that directly serves a subdivision that has is in violation of this chapter, or that has not been accepted by the City as public infrastructure.

6. Any subdivision that is filed and recorded in violation of this chapter shall be subject to annulment under the provisions of Chapter 354.20 of the *Code of Iowa*.

7. Streets and alleys that are created by a subdivision shall not be open for public access until the plat has been made an official plat, or at any time thereafter unless and until the street has been fully improved in accordance with this Code of Ordinances and said improvements have been accepted by the City Council, for public safety reasons.

8. Penalty. Any violation of any of the terms or conditions of this chapter, or any failure to comply with any of its requirements, shall constitute a civil infraction or misdemeanor and shall be accordingly subject to fines or imprisonment in accordance

with the provisions of the *Code of Iowa*, in addition to the remedies, restrictions, limitations, and enforcement set forth in Chapter 3. Each day a violation exists may be considered a new and separate infraction or misdemeanor.

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CHAPTER 171

MASTER PLAN REGULATIONS

171.01 PURPOSE. The purpose of this chapter is to promote and encourage development or redevelopment of tracts of land on a planned, unified basis by allowing greater flexibility and diversification than is normally permitted by conventional single lot development in zoning districts, because of the substantial public advantages of planned development. Although Planned Unit Developments (PUDs), including mobile home parks and tiny home parks, may appear to deviate in certain respects from a literal interpretation of the Comprehensive Plan, regulations adapted to such unified planning and development are intended both to accomplish the purposes of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are designed to control unscheduled development on individual lots, and to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious variety, creative design, and a better living environment.

171.02 WHERE PERMITTED. Planned Unit Developments shall be permitted on any 10-acre or larger tract of land, or contiguous tracts of land, that has been zoned or rezoned for PUD purposes by the City Council. Said PUDs may consist of residential, commercial, public, semi-public land, conservancy land, or any combinations of land uses thereof. Mobile home parks and tiny home parks are permitted only on any 20-acre or larger tract of land that has been zoned or rezoned for mobile home park and tiny home park purposes by the City Council. Said mobile home parks and tiny home parks shall consist of mobile home or tiny home spaces and accessory structures including a required storm shelter. A Master Plan shall be submitted by the applicant in conjunction with any petition requesting rezoning of a parcel or parcels of land to either Planned Unit Development District (PUD) or R-4 Mobile Home Residential District (R-4). However, the Master Plan for such PUD, mobile home park, or tiny home park shall not become effective until the appropriate zoning, either PUD or R-4, has been approved by the City Council.

171.03 PRE-APPLICATION CONFERENCE. In order to eliminate unnecessary expenditures of time and money, the developer shall first schedule a pre-application conference with the City Manager, who shall involve the City Engineer and representatives of other departments as deemed appropriate. The City Manager may require submittal of a generalized sketch plan providing such information as follows:

1. Location and size of the overall site, and of the individual types of development or uses proposed within the site.

2. Existing topography, indicating slopes, major earth-work areas, drainage courses, embankment stability, soil suitability, runoff on considerations, floodplains, and any problem areas.

3. Existing tree masses and other geological and environmentally important characteristics.

4. Generalized vehicular and pedestrian systems and parking areas.

5. Generalized building locations.

6. Approximate gross density, and number and types of dwelling units, in accordance with the Comprehensive Plan; approximate gross floor areas of commercial and industrial land uses.

7. Generalized stormwater management plan for drainage and detention, including embankment protection and erosion controls.

8. Generalized utility line considerations with sanitary sewer capacity limitations so noted.

9. Generalized public and private ownership boundaries, including common ownership areas, if any.

10. Generalized building locations for small PUD proposals.

11. Proposed development schedule and phasing plan.

171.04 APPLICATION FOR REZONING.

1. Following the pre-application conference, the applicant shall submit a petition for rezoning to PUD or R-4 in accordance with standard City procedures for rezoning, accompanied by a Master Plan, development agreement and related documents containing the information required by this chapter, and required fees.

2. The petition, Master Plan, and development agreement shall be referred to the Planning and Zoning Commission for study and report and for public hearing if required for rezoning by the Commission. The Commission shall review the Master Plan for conformity to the standards of this chapter, and may approve the plan as submitted; require the petitioner to modify, alter, adjust, or amend the plan as deemed necessary to preserve the intent and purpose of this chapter to promote public health, safety, and general welfare; or recommend that it be denied. The action of the Planning and Zoning Commission shall be reported to the City Council, where upon the Council may approve or disapprove the petition and Master Plan as reported, or may require such changes thereto as deemed necessary to effectuate the intent and purpose of this chapter.

3. The City staff shall schedule all required public hearings as soon as possible after all required information has been submitted. The Planning and Zoning Commission shall report their findings to the City Council in a timely manner. In the event they fail to take action within 60 days after the date of public hearing, the petitioner or anyone located within the notification area as defined for rezoning may request in writing that the Commission complete their considerations. The Commission shall then take action within the next 30 days and report their findings to the Council for consideration by the Council, unless the Council expressly grants the Commission additional time to complete negotiations, studies, or other items necessary.

171.05 DEVELOPMENT CONTROLS. Although PUD's are intended to promote and permit flexibility of design, and thereby may involve modifications of conventional regulations or standards, certain requirements which are set forth below shall be applied to ensure that the development is compatible with the intent of this chapter. Mobile home parks and tiny home parks are intended to be developed in a consistent manner.

1. Any use that is approved and made a part of the Master Plan, subject to any conditions attached thereto, shall be permitted.

2. Height, setback, bulk, and other requirements set out in the Master Plan shall constitute the basis for, and become the zoning requirement for, that particular PUD, provided that refinements may be made through Preliminary Plat and Site Plan approval if not defined as a substantial modification; in lack of any special provisions set out in the Master Plan, the requirements of the most proximate zoning district, as defined by use, shall be applied.

3. Project phases shall be substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, required open space, screening and transitional elements and other support features, and be capable of supporting required operation and maintenance activities; temporary provisions, such as turnarounds or access easements, may be required for this purpose; the initial phases generally should include development of common amenities and should provide a feasible means of developing the property in terms of access, sewer service, or similar physical constraints.

4. The combination of adjoining tracts of land into one cohesive Planned Unit Development shall be encouraged. Where such adjoining tracts of land are not under the same ownership, the owners of all property within the PUD shall sign the development agreement indicating concurrence with the requirements of the Master Plan and rezoning ordinance.

5. Attention shall be given to mitigation of existing or potential land use conflicts through proper orientation, open space setbacks, landscaping and screening, grading, traffic circulation, and architectural compatibility. It is the intent of this chapter to recognize that appropriate use of design techniques will provide the required mitigation, and thereby eliminate the need for certain conventional regulations or standards. As examples and not requirements:

A. Provision of landscaped parks and open space to mitigate densities, orienting views, access, and principal activities away from the land use needing protection, placing those least compatible activities farthest from the common boundary and those most compatible nearest, can create an effective buffer.

B. Setbacks in conjunction with landscaping can mitigate conflicts by providing a visual buffer, controlling pedestrian access, softening visual contrast by subduing the differences in architecture and bulk, and reducing heat. Dense landscaping can reduce the width of physical separation needed for such purposes.

C. Proper grading will control drainage, can alter views and subdue sound, and channel access.

D. Fences, walls, and berms will channel access and control visual, sound, and light pollution.

E. Proper architectural use of color, bulk, materials, and shape will enhance compatibility and reduce contrast, although details added to the building for aesthetic purposes without consideration to form and surroundings may be detrimental rather than helpful.

F. Proper design of pedestrian ways, streets, and points of access, and proper location of parking areas, will reduce congestion and safety hazards and

help prevent introduction of noise, pollutants, and other conflicts into areas with less intensive land use.

G. Other techniques may also be used.

6. Permanent care and maintenance of open space, recreation amenities, and other common elements shall be provided in a legally binding development agreement.

7. Except where the City agrees to other arrangements, a PUD shall be comprised of either a single owner or a group of owners acting as a partnership or corporation with each agreeing in advance to be bound by the conditions which will be effective in the PUD.

171.06 MASTER PLAN AND DEVELOPMENT AGREEMENT. The following information, plans, and maps shall be submitted as part of the application for a Planned Unit Development, mobile home park, or tiny home park.

1. Names, addresses, and telephone numbers of owners, developer, and designer; name of development, date, north point, and scale.

2. Legal description of the property, and map of the boundary of the proposed PUD, as well as interior boundaries of proposed development phases, and of any existing separate ownerships.

3. Sufficient information on adjacent properties to indicate relationships to the proposed development, including such information as land divisions, land use, pedestrian and vehicular circulation, significant natural features or physical improvements, and drainage pattern.

4. Existing site conditions including contours at intervals sufficient to indicate topographic conditions (generally two feet), drainage ways and 100-year floodplains (base floodplains), floodways, heavy woods or other significant natural areas, and existing structures.

5. General locations of proposed lots and attached residential, multiple family, commercial, and industrial structures, and recreation facilities; further delineating areas with different uses or building types, and gross density per acre.

6. General location and size of areas to be dedicated or reserved for common open space, parks, landscaping areas, schools, recreation area, and similar uses, and how any private facilities are proposed to be maintained.

7. Existing and proposed general circulation systems, including streets, pedestrian ways, recreation trails, major off-street parking and loading areas, and major points of access.

8. Existing and proposed general sanitary sewer collection systems, water main distribution systems, and stormwater management plan including storm sewers, drainage ways, and detention facilities. All utilities, including franchise utilities, shall be underground.

9. Proposed development standards, including uses, density, floor area ratios for nonresidential developments, lot areas and widths, setbacks, and exceptions or variances from general requirements of zoning and other ordinances.

10. Sewer usage computations in accordance with the criteria of the sewer district.

11. Treatment of transitional zones around the perimeter of the project for protection of adjoining properties, including setbacks and buffer areas, landscaping, fences or other screening, height limitations, or other provisions.

12. A narrative or graphic explanation of the planning and design concepts and objectives the owner intends to follow in implementing the proposed development, including a description of the character of the proposed development; the rationale behind the assumptions and choices made; the compatibility with the surrounding area; and design considerations for architecture, engineering, landscaping, open space, and so forth.

13. A statement of intent with regard to selling or leasing all or portions of the proposed development.

14. Proposed energy conservation methods, such as siting or design of structures.

15. Proposed phasing timetable including a phasing plan indicating the limits of each phase of development along with buffers for each phase where appropriate.

16. A development agreement shall be signed by the property owners and the applicant if the applicant does not own all of the property within the PUD, mobile home park, or tiny home park. This agreement shall reference the Master Plan drawings and shall include narrative information as deemed necessary regarding specific development provisions and densities, such information may also be incorporated into the ordinance rezoning the property.

17. The City Manager may require any additional information which may be needed to evaluate the proposed development on the basis of special or unforeseen circumstances, or may waive any of the above requirements if it is found that such information is unnecessary to properly evaluate the proposed development.

18. The Master Plan and development agreement shall be binding on the petitioner and any and all successors in title so long as PUD or R-4 zoning applies to the land, unless amended in accordance with the procedures set forth. The development agreement and the ordinance for rezoning may include a sunset clause such that the zoning of the land or a portion of the land may revert to the original zoning should development not occur within a specified time frame if such sunset clause is deemed necessary by City Council.

The above information should be shown in a clear and logical manner in a legible scale. Sheet size should not exceed 24 inches by 36 inches. Generally, existing conditions should be illustrated on a separate sheet for sake of clarity, although existing topography, access, utility and sewer lines, and other items that are appropriate for understanding the proposal should also appear on the proposed development plan. It is strongly recommended that an architect, landscape architect, and civil engineer be employed to prepare the plans.

171.07 ADDITIONAL REQUIREMENTS FOR MOBILE HOME PARKS AND TINY HOME PARKS.

1. In addition to the Master Plan and development agreement requirements specified above, the applicant for a mobile home park or tiny home park development shall include the following:

A. Individual mobile home or tiny home spaces of appropriate dimension shown and numbered.

B. All buildings, other than garages and other buildings accessory to individual mobile home or tiny home spaces, including their proposed height, size, use, and exterior design.

C. Landscaping and plant materials, including species and size at time of installation and maturity.

D. Walls and fences.

E. Lighting facilities for streets and common areas and buildings, including fixture type and illumination.

F. Solid waste receptacles.

G. Central television antennas.

2. Design Standards.

A. No mobile home park or tiny home park, or any initial stage thereof, shall contain less than 50 mobile home or tiny home spaces.

B. Not less than eight percent of the gross area of every mobile home park or tiny home park shall be developed as recreation areas easily accessible to all park residents. Recreation areas may include, but are not limited to, such facilities as recreation buildings, adult recreation areas, child play areas, and swimming pools. Only unpaved, unenclosed areas may be considered toward the open space requirement as specified in Section 165.06.

C. Off-Street Parking: In addition to the provisions of Section 165.18, two parking spaces for each mobile home space.

D. Streets.

(1) All streets within the mobile home park or tiny home park shall be privately owned and maintained.

(2) If turning lanes or other forms of traffic controls at the entrances and exits to and from the mobile home park or tiny home park are deemed necessary by the Council, the developer shall provide the necessary public improvements.

(3) Entrance streets shall be not less than 35 feet wide. Interior streets shall not be less than 25 feet wide.

(4) Every dead-end street shall be provided with a cul-de-sac with not less than an 84-foot turning diameter.

(5) All streets shall be paved with asphalt or Portland cement concrete and constructed with a continuous concrete curb and gutter to provide for drainage.

(6) The location and design of all intersections of access streets with public streets shall be approved by the City Engineer.

E. Utilities. All water mains, sanitary sewers, and storm sewers within the mobile home park or tiny home park shall be privately owned and maintained unless otherwise approved by City Council. All such utilities, whether public or private, shall be constructed in accordance with the City's standard specifications and the construction of same shall be inspected by the City Engineer.

F. Walks.

(1) Common sidewalks shall be provided along all entrance streets and in areas of high pedestrian traffic, such as in the vicinity of community buildings and recreation facilities. The sidewalks shall be at least four feet wide and of asphaltic or Portland cement binder pavement.

(2) Individual walks shall be provided to connect all mobile home or tiny home stands to common sidewalks, to paved streets, or to paved driveways or parking spaces connected to a paved street. Such individual walks shall be at least two feet wide and of asphaltic or Portland cement binder pavement.

G. Lighting. The park street system shall be furnished with lighting units so placed and equipped to provide the following average minimum maintained levels of illumination:

(1) Upon all parts of the park street system: 0.2 foot-candles.

(2) Upon potentially hazardous locations, including major street intersections and park entrances: 0.4 foot-candles.

H. Installation, Anchorage, and Skirting.

(1) Every mobile home or tiny home shall be supported and set, and tie-downs or anchors provided, as specified in the manufacturer's instructions, or in their absence, according to the minimum requirements as established by the Iowa *State Building Code.*

(2) Skirting of a permanent type material and construction sufficient to provide substantial resistance to high winds shall be installed within 90 days after the placement of the mobile home or tiny home to enclose the open space between the bottom of the mobile home or tiny home floor and the grade level of the mobile home or tiny home stand. The skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home or tiny home and the appearance of the mobile home park or tiny home park.

I. Refuse collection stands consisting of a holder or rack elevated at least 12 inches above ground, or an impervious slab at ground level, shall be provided for all solid waste receptacles.

J. Buildings housing accessory uses, food services, vending machines, drug stores, grocery stores, coin operated laundry facilities, and similar goods or services customarily incidental and subordinate to a mobile home park or tiny home park, and the required parking, therefore, shall not exceed five percent of the gross area of the mobile home park or tiny home park.

K. A minimum area of five percent of the total area for the mobile home park or tiny home park is required for the parking or storage of boats and recreational vehicles. This parking facility shall be hard surfaced with concrete or asphalt with a minimum depth of six inches and be strategically placed with the development to minimize public visibility. The area must be screened and landscaped.

171.08 FINAL PLANS.

1. Preliminary Plats of Subdivision and Site Plans. Following City Council approval of an ordinance rezoning a parcel to PUD or R-4 and approving the Master Plan and development agreement, the applicant shall be required to submit a Preliminary Plat in compliance with the requirements of Chapter 170 – Subdivision Regulations.

A. Such plat shall contain all information and be processed in the manner set forth in said regulations, in addition to complying with any specific provisions of the Master Plan, and shall generally comply with the development concepts outlined in the Master Plan and development agreement.

B. The initial Preliminary Plat filed for the property shall be required to include the entire PUD, mobile home park, or tiny home park, with lots assigned for Phase 1 development and outlots assigned for approved future phases of development. Each approved phase shall demonstrate the ability to be self-sustaining in terms of access, services, utilities, open space, economic viability, and other major considerations.

C. The Preliminary Plat may be required to subdivide the property in outlots based on use prior to platting into lots for further development.

D. For all uses other than single-family detached residential lots, the Preliminary Plat shall include a Site Plan providing detailed design information including architectural elevations, building materials, sidewalks and walkways, landscaping, sidewalks and trails, monument and building signage, and various site amenities, all in conformance with Chapter 157 – Site Plans. Site Plans may be required for single-family detached residential lots or for amenities such as parks serving said lots if so designated on the Master Plan or if requested by the Commission or Council.

E. No public notice or hearing shall be required for Preliminary Plats or Site Plans unless required by the Master Plan or development agreement or caused to be required by the Commission or Council as deemed appropriate. Provided, however, minor deviation from the Master Plan may be permitted as refinements to the design and planning if not defined by this chapter as a substantial modification requiring amendment to the Master Plan. Such minor deviations shall be expressly set out and shall be approved by the Planning and Zoning Commission and City Council.

2. Construction Drawings and Final Plats of Subdivision. Following City Council approval of a Preliminary Plat, and Site Plan if required, the applicant shall submit a Final Plat including accompanying information in conformance with all requirements of Chapter 170 – Subdivision Regulations.

A. Final Plat shall be in conformance with the Master Plan, Preliminary Plat, and Site Plan.

B. If the Master Plan or Preliminary Plat include any public improvements, the applicant shall submit construction drawings for review by the City Engineer and approval by City Council as required by Chapter 170. Construction of the public improvements shall be completed, and said improvements accepted by Council, prior to Final Plat approval; unless this requirement is specifically waived by the City Council and appropriate bond or

security as recommended by the City Attorney has been provided to the City Clerk.

C. No public notice or hearing shall be required for Final Plats or Construction Drawings unless required by the Master Plan or development agreement or caused to be required by the Commission or Council as deemed appropriate. Provided, however, minor deviation from the Master Plan may be permitted as refinements to the design and planning if not defined by this chapter as a substantial modification requiring amendment to the Master Plan. Such minor deviations shall be expressly set out and shall be approved by the Planning and Zoning Commission and City Council.

3. Upon the approval of Preliminary Plat and Site Plan and the approval and recordation of the Final Plat, building permits shall be issued in the same manner as for building permits generally, including siting for individual mobile homes or tiny homes. Certificates of Occupancy shall be issued in conformance with applicable City codes.

171.09 AMENDMENTS OR MODIFICATIONS.

1. Substantial modifications to the Master Plan shall be processed in the same manner as a rezoning and additionally shall comply with the provisions of this section. Notice and public hearing requirements and the effect of a denial shall be the same as for rezoning, provided that the notification area shall be those property owners proximate to the parcel covered by the amendment, as opposed to the entire PUD. Further provided that in the event a requested amendment for a portion of the entire PUD is denied, such action shall not create any limitations under rezoning procedure on the filing of an amendment to another portion of the PUD having a substantially different notification area. Any ambiguities or disputes between this chapter and procedures for rezoning shall be resolved in favor of the more restrictive requirements.

2. Substantial modifications are hereby defined to include, but are not limited to, the following: increased density; intensification of use by changing to a lower classification, with conventional single-family being the highest classification and progressing to attached single-family, multiple-family, commercial offices, retail, warehousing, and light industry, to heavy industry; addition of uses, or elimination of conditions or restrictions on a use or uses; increased floor area ratios, or other modifications considered probable to generate increased traffic, sewage, waste consumption, or other detrimental conditions; significant modifications to peripheral buffering or screening, setbacks, height, locations of buildings, drives, or other improvements which were intended for protection of proximate properties, provided that substitution of equivalent screening materials shall not be considered a substantial modification; modifications to the street pattern, such as that of major streets or continuations of existing streets, which will have a demonstrable impact on traffic flow such as to effectively change the functional classification of the street; modifications to access which may lead to increased congestion, or to additional commercial or industrial traffic on a local residential street; or other changes deemed substantial by the City staff.

3. Modifications to final plans shall follow the procedures of the site planning or subdivision regulations, as appropriate, except in the case of a substantial modification as defined above.

4.

171.10 VALIDITY.

1. In the event the first development phase has not commenced within two years after the date of rezoning, or if subsequent phases are delayed more than two years beyond the indicated development schedule, the developer shall file appropriate information detailing the reasons for the delay with the City Manager. The City Manager shall review the circumstances and prepare a report recommending appropriate action to be taken concerning the PUD, mobile home park, or tiny home park. The Planning and Zoning Commission and City Council shall review the matter, and may continue the PUD zoning with revised time limits; require that appropriate amendments be made or action taken, such amendments to comply with the procedures of this chapter if deemed substantial; continue the PUD or R-4 zoning for part of the area, with or without revised time limits, and initiate rezoning of the remainder to an appropriate district; or initiate rezoning of the entire parcel to an appropriate district, provided that the rezoning shall not be to a zone more restrictive than the applied immediately prior to the rezoning to PUD except after comprehensive planning analysis. The Commission and Council may schedule such public hearings as deemed appropriate.

2. Approval of a Site Plan or Preliminary Plat shall be deemed to commence development, provided that the permanent placement of construction materials shall have started and be proceeding without delay within two years after the date of Site Plan approval, and a Final Plat approved within one year after the date of Preliminary Plat approval in the event a Site Plan is not required. Failure to comply with this provision shall void the Site Plan and Preliminary Plat approvals, and make the PUD subject to review as provided above.

3. It shall be the responsibility of the developer to comply with all prescribed time limits without notice from the City.

171.11 APPLICATION TO EXISTING PUD DISTRICTS. Existing PUD districts shall comply with the requirements and provisions of this chapter, provided that no additional filings shall be required to maintain current valid status, and no currently expired approvals shall be deemed to have been reapproved by this chapter. Validity of existing PUDs shall be computed according to the time limits set forth herein.

171.12 FEES. Before any action shall be taken by the Commission on any petition for rezoning or on any Master Plan, the applicant or agent shall deposit with the Clerk a fee according to a schedule adopted from time to time by resolution of the City Council. The applicant shall also be responsible for any development review fees incurred by the City Engineer for review of the PUD and related documents; said fees shall be reimbursed to the City prior to any action by the Commission and paid in full prior to Council action. Site Plans and Plats of Subdivision within a PUD shall also be subject to the normal fees for such filings.

INDEX TO CODE OF ORDINANCES

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APPENDIX TO
CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The "OFFICIAL COPY" of the Code of Ordinances must be kept by the City Clerk and should be identified as the "OFFICIAL COPY."

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF POLK CITY, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF _____ STREET

BE IT ENACTED by the City Council of the City of Polk City, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Polk City, Iowa, is amended by adding a new Section 69.15, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.15 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. _____ Street, on the _____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF POLK CITY, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Polk City, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Polk City, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.___ on the ___ day of _____, 20___.

_____
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF POLK CITY, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Polk City, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Polk City, Iowa, is repealed and the following adopted in lieu thereof:

> **99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than $_____ per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ___

AN ORDINANCE VACATING *(INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED)* TO POLK CITY, IOWA

Be It Enacted by the City Council of the City of Polk City, Iowa:

SECTION 1. The *(location or legal description of street or alley)* to Polk City, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

_____
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Polk City, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Polk City, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Polk City, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Polk City, Iowa

By: _____
(enforcement officer)

RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING

BE IT RESOLVED, by the City Council of the City of Polk City, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20___.

_____
Mayor

ATTEST:

_____
City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Polk City, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)
_____
(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

_____
_____
_____

The nearest public sewer line within _____ (____) feet of the above described property is located

_____
_____
_____

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Polk City, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)
_____
(Street Address)
_____, Iowa

You are hereby notified that the City Council of Polk City, Iowa, will meet on the ___ day of _____, 20___, at _____ __m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

_____
_____
_____

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Polk City, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Polk City, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20___, on _____,
(Name of Property Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as
_____
_____
_____
_____

to the public sanitary sewer located_____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____
(Name of Owner or Agent)
is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

_____

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20___.

_____

Mayor

ATTEST:

_____

City Clerk

CITY OF POLK CITY, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: _____ APPLICATION NO.: _____ FEE: _____

Applicant _____
Address _____
_____
Tel. No. (Bus.) _____ (Res.) _____

FOR OFFICE USE ONLY

____ FEE PAID
____ PLOT DIAGRAM SUBMITTED
____ PLAN SUBMITTED
____ APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS_____

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: _____
_____
_____

PRESENT USE: _____

PROPOSED USE: _____
_____

A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, *AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.*

****

I have read Chapter _____ of the Code of Ordinances of Polk City, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

_____
(Applicant's Signature)

CITY OF POLK CITY, IOWA

BUILDING/LAND USE PERMIT

PERMIT NO._____ _____ (Date)

APPLICATION NO._____ _____
(Date of Application)

LOCATION_____

****

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER ___, "BUILDING AND LAND USE REGULATIONS" OF THE CODE OF ORDINANCES OF POLK CITY, IOWA.

APPROVED BY COUNCIL _____ (Date)

****

THIS PERMIT ISSUED TO:

NAME: _____

ADDRESS: _____

_____

_____

_____
Signature of Building Official

CITY OF POLK CITY, IOWA

APPLICATION FOR A CERTIFICATE OF OCCUPANCY

DATE_____ APPLICATION NO._____

APPLICATION NO. OF BUILDING/LAND USE PERMIT _____

****

APPLICANT: _____
ADDRESS: _____
_____

TELEPHONE NO. (Business) _____
(Home) _____

****

_____
Signature of Applicant

_____
Signature of Building Official

CITY OF POLK CITY, IOWA

CERTIFICATE OF OCCUPANCY

NO._____ ☐ PERMANENT
☐ TEMPORARY

DATE: _____
C.O. APPLICATION NO._____ BUILDING/LAND USE PERMIT NO.____
DATE ISSUED: _____

LOCATION_____

****

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER _____ OF THE CODE OF ORDINANCES OF _____, IOWA, AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

****

THIS CERTIFICATE ISSUED TO:

NAME: _____
ADDRESS: _____
_____
_____

_____
Signature of Building Official