

CHAPTER 1

CODE OF ORDINANCES

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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Morning Sun, 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 Morning Sun, Iowa.
3. “Clerk” means the city clerk of Morning Sun, 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 Morning Sun, Iowa.
6. “Council” means the city council of Morning Sun, Iowa.
7. “County” means Louisa County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Morning Sun, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

1.12 WARRANTS. If consent to enter upon or inspect any building, structure or property pursuant to a municipal ordinance is withheld by any person having the lawful right to exclude, the City officer or employee having the duty to enter upon or conduct the inspection may apply to the Iowa District Court in and for the County, pursuant to Section 808.14 of the Code of Iowa, for an administrative search warrant. No owner, operator or occupant or any

other person having charge, care or control of any dwelling unit, rooming unit, structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.

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

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of two (2) 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)

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$750.00
 - B. Each Repeat Offense – Not to exceed \$1,000.00

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

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

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

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight (8) hours.

3.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. 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 one copy 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.

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

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

3.06 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal

penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 22.2 & 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[1])

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.5[11])

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: the Clerk, Mayor and Mayor Pro Tem, following Council approval, except as provided by subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.
2. Annual Report. Not later than December first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

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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
2	July 26, 1994	Morning Sun Urban Renewal Area
01-100	January 22, 2001	2001 Addition to the Morning Sun Urban Renewal Area
02-204	June 17, 2002	2002 Addition to the Morning Sun Urban Renewal Area

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CHAPTER 9

URBAN REVITALIZATION

9.01 DESIGNATION OF REVITALIZATION AREA. In accordance with Chapter 404 of the Code of Iowa, the entire area within the corporate boundaries of the City is hereby designated as a revitalization area, said area being described as follows:

The entire area within the corporate boundaries of the City of Morning Sun, Louisa County, Iowa, as established on the 20th day of April, 1992.

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of two (2) years.
(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:

(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem
2. Library Board of Trustees
3. Subdivision Control Administrative Officer
4. Building Administrator
5. Zoning Board of Adjustment

15.04 COMPENSATION. The salary of the Mayor is one thousand seven hundred fifty dollars (\$1,750.00) per annum, plus twenty-five dollars (\$25.00) for each Council meeting attended by the Mayor.

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

E. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen (14) days after the date of passage, and an ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen (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. 380.4)

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

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

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.

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

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

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

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

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

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

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

1. City Clerk

2. City Attorney

3. City Treasurer

4. Planning and Zoning Commission

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

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures

18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal
18.14 City Funds

18.01 APPOINTMENT AND COMPENSATION. At its first meeting in January following the regular city election the Council shall appoint by majority vote a City Clerk to serve for a term of two (2) years. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[4 & 5] and 380.7[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. At the direction of the Council, the Clerk shall attend meetings of committees, boards and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 376.6)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.
2. Record of Fund. Keep the record of each fund separate.

3. Record Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.
4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Clerk's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements with the 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.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The Council shall appoint by majority vote a City Treasurer to serve at the discretion of the Council.

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

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

1. Record of Fund. Keep the record of each fund separate.
2. 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.
3. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.
4. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

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CHAPTER 20

CITY ATTORNEY

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

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

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council and shall establish by resolution the City Attorney's compensation.

(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 which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.

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

20.05 REVIEW AND COMMENT. The City Attorney shall, upon request, make a report to the Council and interested department heads, 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 which may be required for the use of the City.

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

21.01 PUBLIC LIBRARY. The public library for the City is known as the Mellinger Memorial 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 four (4) resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member, if appointed, is to be appointed by the Mayor with the approval of the County Board of Supervisors.

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

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive 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. The Clerk shall serve as Board Treasurer, but shall not be a member of the Board.

2. Charge of Affairs. To direct and control all affairs of the Library.
3. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
4. Removal of Personnel. To remove the librarian, by a two-thirds (2/3) vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
5. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
6. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
7. 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.
8. 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.
9. 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.
10. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission

22.02 Term of Office

22.03 Vacancies

22.04 Compensation

22.05 Powers and Duties

22.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of five (5) members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure

or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 30

CONTRACT LAW ENFORCEMENT

30.01 CONTRACT LAW ENFORCEMENT. The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such other entity shall have and exercise the powers and duties as provided in said contract and as required by law or ordinance.

(Code of Iowa, 28E.30)

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CHAPTER 31

FIREARM/WEAPON-FREE ZONES

31.01 Purpose
31.02 Definitions

31.03 Detection
31.04 Penalties

31.01 PURPOSE. Municipal buildings and/or City property owned, leased, or occupied by the City, including herein the building and real estate owned by Mellinger Library, are declared to be firearm/weapon free zones. It shall be unlawful for any person, except a peace officer, member of the Armed Forces of the United States or the National Guard, a person in the service of the United States, or correctional officer serving in an institution under authority of the Iowa Department of Corrections to carry, possess, or display any weapon or firearm within any municipal building or on any City property.

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

1. “City property” means any land or real estate owned or leased by the City of Morning Sun, Iowa, (excluding streets, alleys, or parking areas) and used for any municipal or public purposes by the City.
2. “Firearm” means any device or instrument designed to propel (or used in the propulsion of) any bullet, shot, pellet, slug, BB, dart or other projectile by the action of an explosive, or by mechanical or electrical means, within or connected to the device or instrument. The term includes pistols, revolvers, derringers, handguns, pellet guns, rifles, shotguns, muskets, or other devices which can expel or may be readily converted to expel any form of projectile so as to strike an object or person.
3. “Municipal building” means any structure, dwelling, garage, property, or shelter owned, leased, or otherwise occupied by the City and used for any municipal or public purposes by the City.
4. “Weapon” means and includes all weapons as defined or described in Sections 724.1 and 724.4 of the *Code of Iowa*, as amended.

31.03 DETECTION. Persons entering any municipal building or City property may, upon probable cause to believe they are carrying or in possession of a weapon or firearm, be subject to metal detection testing or personal search.

31.04 PENALTIES. Any person violating the provisions of this chapter shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a fine not exceeding \$200.00.

(Ch. 31 – Ord. 10-102 – Apr. 13 Supp.)

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CHAPTER 35

FIRE DEPARTMENT

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

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

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

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CHAPTER 45

PUBLIC OFFENSES

45.01 Assault	45.13 Antenna and Radio Wires
45.02 Harassment	45.14 Barbed Wire and Electric Fences
45.03 Disorderly Conduct	45.15 Discharging Weapons
45.04 Unlawful Assembly	45.16 Throwing and Shooting
45.05 Failure to Disperse	45.17 Criminal Mischief
45.06 Urinating and Defecating	45.18 Defacing Proclamations or Notices
45.07 Distributing Dangerous Substances	45.19 Unauthorized Entry
45.08 False Reports to or Communications with Public Safety Entities	45.20 Trespassing Prohibited
45.09 Refusing to Assist Officer	45.21 Fraud
45.10 Harassment of Public Officers and Employees	45.22 Theft
45.11 Interference with Official Acts	45.23 Fireworks
45.12 Abandoned or Unattended Refrigerators	45.24 Amusement Devices
	45.25 Drug Paraphernalia

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

45.02 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 such 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.

45.03 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 which is reasonably related to that sport.

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

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

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

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

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

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

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

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

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

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

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

- A. “Deface” means to intentionally mar the external appearance.
- B. “Defile” means to intentionally make physically unclean.
- C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
- D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
- E. “Show disrespect” means to deface, defile, mutilate or trample.
- F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle or animal to tread upon.

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

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

8. Funeral or Memorial Service. Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

- A. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
- B. Direct abusive epithets or make any threatening gesture which 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)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

45.06 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 public or private land.

45.07 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)

45.08 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.

45.09 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)

45.10 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)

45.11 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, 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)

45.12 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)

45.13 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])

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

45.15 DISCHARGING WEAPONS.

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

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

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

45.17 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)

45.18 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)

45.19 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.

45.20 TRESPASSING PROHIBITED. It is unlawful for a person to knowingly trespass upon the property of another. As used in this section, the term "property" includes any land,

dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned. The term “trespass” means one or more of the following acts:

(Code of Iowa, Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

45.21 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)

45.22 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)

45.23 FIREWORKS. The sale, use or exploding of fireworks within the City is subject to the following:

1. Definition. The term “fireworks” includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks

containing any explosive or flammable compound, or other device containing any explosive substance.

(Code of Iowa, Sec. 727.2)

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

(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)

45.24 AMUSEMENT DEVICES.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

45.25 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

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

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

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

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

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CHAPTER 46

MINORS

46.01 Curfew

46.03 Contributing to Delinquency

46.02 Cigarettes and Tobacco

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

1. Definition. The term “minor” means in this section, any unmarried person below the age of eighteen (18) years.

2. Time Limits.

A. It is unlawful for any minor fifteen (15) years of age and under to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City after 10:00 p.m. and until 6:00 a.m. of the following day.

B. It is unlawful for any minor sixteen (16) or seventeen (17) years of age to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City at the following times:

Sunday – 11:00 p.m. to 6:00 a.m. Monday morning;

Monday – 11:00 p.m. to 6:00 a.m. Tuesday morning;

Tuesday – 11:00 p.m. to 6:00 a.m. Wednesday morning;

Wednesday – 11:00 p.m. to 6:00 a.m. Thursday morning;

Thursday – 11:00 p.m. to 6:00 a.m. Friday morning;

Friday Night/Saturday Morning – 12:00 midnight to 6:00 a.m.

Saturday morning;

Saturday Night/Sunday Morning – 12:00 midnight to 6:00 a.m.

Sunday morning.

3. Exceptions. The restriction provided by subsection 46.01(2) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his or her home or place of residence and the place where any approved employment, 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 in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 46.01(2), except as otherwise provided in subsection 46.01(3).

(Code of Iowa, Sec. 613.16)

5. Responsibility of Business Establishments. It is unlawful for any persons operating a place of business or amusement to allow or permit any minor to be in or

upon any place of business or amusement operated by them within the curfew hours set by subsection 46.01(2) except as otherwise provided in subsection 46.01(3).

6. Enforcement. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsections 46.01(2) and (3). Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

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

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

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

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

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

50.08 Abatement in Emergency
50.09 Abatement by City
50.10 Collection of Costs
50.11 Installment Payment of Cost of Abatement
50.12 Failure to Abate
50.13 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

50.02 NUISANCES ENUMERATED. The following subsections include, but do not limit, the conditions which 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, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
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, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.
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.
11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the Code of Iowa or places resorted to by persons using controlled substances, as defined in Section 124.101 of the Code of Iowa, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

50.03 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)

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

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.
6. Hearing. Notification that the property owner has the right to 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.
7. Findings. 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 unless the property owner files an appeal to the appropriate Iowa District Court within twenty days after the Council's decision.

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

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

50.07 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 unless the property owner files an appeal to the appropriate Iowa District Court within twenty days after the Council's decision.[†]

50.08 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.10 after notice to the property owner under the applicable provisions of Sections 50.04, 50.05 and 50.06 and hearing as provided in Section 50.07.

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

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

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

50.10 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

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

(Code of Iowa, Sec. 364.13)

[†] **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.

50.12 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.

50.13 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. A failure to abate a nuisance as defined in this chapter or a failure to perform an action required herein, following notice as provided in this chapter, shall constitute a municipal infraction and the requirements of this chapter may be enforced under the procedures applicable to municipal infractions in lieu of the abatement procedures set forth in this chapter.

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Declared Nuisance

51.04 Exceptions

51.05 Notice of Violation

51.06 Liability of Owner

51.07 Habitual Offenders

51.08 Abatement by City

51.09 Collection of Costs

51.10 Installment Payments of Cost of Abatement

51.11 Failure to Abate

51.12 Municipal Infraction Abatement Procedure

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. “Junked or obsolete motor vehicle” means any motor vehicle stored within the corporate limits of the City, and which meets one of the following criteria:

A. Said vehicle lacks one of more operable wheels or other operable part(s) which renders the vehicle inoperable and such vehicle has remained in such an inoperable condition for a period of 30 days.

B. Said vehicle is not licensed for the calendar year as required by the laws of the State and which, because of any one of the following characteristics, constitutes a threat to the public health and safety:

(1) Any vehicle with a broken or cracked windshield, broken or cracked window, broken or cracked headlight, broken or cracked tail light, or any other broken or cracked glass;

(2) Any vehicle with a broken or loose fender, door, bumper, hood, hood ornament, running board, trunk top, radio aerial, tailpipe, or a broken door handle, window handle, steering wheel, trunk handle, or decorative pieces;

(3) Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects;

(4) Any vehicle which contains gasoline or any other flammable fuel;

(5) Any other vehicle which, because of its defective or obsolete condition, in any way constitutes a threat to the public health and safety.

C. A vehicle for which the cost to repair exceeds fifty percent of the fair market value.

3. "Storage" means the leaving of a motor vehicle upon private property not in an enclosed structure for more than thirty days.
4. "Habitual Offender" means a person who has been cited on three (3) occasions for the same offense.

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 junked or obsolete motor vehicle.

51.03 DECLARED NUISANCE. The storage of junk or obsolete or junked motor vehicles within the corporate limits of the City constitutes a threat to the health and safety of the citizens of the City and is a nuisance within the meaning of Sections 657.1 of the Code of Iowa.

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or junked or obsolete motor vehicle stored within an enclosed structure.

51.05 NOTICE OF VIOLATION. Upon discovery of any junk or junked or obsolete motor vehicle stored upon private property within the corporate limits of the City, the Mayor shall notify the owner of the property upon which it is stored, by certified mail, that:

1. The junk or junked or obsolete motor vehicle constitutes a nuisance under the provisions of this chapter.
2. The owner of the junk or junked or obsolete motor vehicle must remove the same or the violation shall be corrected in accordance with the provisions of this chapter.
3. Upon failure to comply with the provisions of this chapter within 14 days from the date of mailing of the notice, the owner of the junk or junked or obsolete motor vehicle shall be prima facie liable for the violation.
4. The property owner has the right to 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.
5. 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 unless the property owner files an appeal to the appropriate Iowa District Court within twenty days after the Council's decision.

51.06 LIABILITY OF OWNER. If any junk or junked or obsolete motor vehicle is stored upon private property in violation of this chapter, the owner of the same, the owner of the property and/or the tenant of the property shall be prima facie liable for the violation.

51.07 HABITUAL OFFENDERS. A person who is a habitual offender as defined in Section 51.01 of this chapter shall not be given additional written notice for any subsequent occasions and will automatically be cited. This means that each and every day of violation shall be considered a separate offense and shall be punishable as a simple misdemeanor.

51.08 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. An administrative fee of \$250.00 will be added to abatement costs.

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

51.09 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail to the person who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within thirty (30) days from notice, 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])

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

(Code of Iowa, Sec. 364.13)

51.11 FAILURE TO ABATE. Any person causing or maintaining a nuisance who fails or refuses 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.

51.12 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. A failure to abate a nuisance as defined in this chapter or a failure to perform an action required herein, following notice as provided in this chapter, shall constitute a municipal infraction and the requirements of this chapter may be enforced under the procedures applicable to municipal infractions in lieu of the abatement procedures set forth in this chapter.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect
55.03 Livestock Neglect
55.04 Abandonment of Cats and Dogs
55.05 Livestock
55.06 At Large Prohibited
55.07 Damage or Interference
55.08 Annoyance or Disturbance

55.09 Vicious Dogs
55.10 Rabies Vaccination
55.11 Owner's Duty
55.12 Confinement
55.13 At Large: Impoundment
55.14 Disposition of Animals
55.15 Impounding Costs
55.16 Pet Awards Prohibited

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.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "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.
4. "Business" means any enterprise relating to any of the following:
 - 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.
5. "Fair" means any of the following:
 - 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.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.
7. "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)

8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

9. "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.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

55.05 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.

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

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

55.09 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner.

55.10 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs

kept in kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. The City shall contract with Mediapolis Veterinary Clinic for impoundment. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

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

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. Impounding costs are as established by the impounding facility. The City shall charge a pickup fee of twenty-five dollars (\$25.00).

(Code of Iowa, Sec. 351.37)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

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

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

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CHAPTER 56

DOG LICENSE REQUIRED

56.01 Three-Year License Required
56.02 Kennel Dogs
56.03 Application by Owner
56.04 Subsequent Application
56.05 Form of Application
56.06 License Fees
56.07 License Tags
56.08 Duration of License

56.09 Transfer on Change of Ownership
56.10 Transfer on Change of Residence
56.11 Tag Not Transferable
56.12 Duplicate Tags
56.13 Delinquency
56.14 Record Book
56.15 Dog as Property

56.01 THREE-YEAR LICENSE REQUIRED. Every owner of a dog over the age of six (6) months shall procure a dog license from the Clerk.

56.02 KENNEL DOGS. Dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this chapter.

56.03 APPLICATION BY OWNER. The owner of a dog for which a license is required shall, on or before July 1 of every third year after receiving a dog license from the Clerk, apply to the Clerk for renewal of a license for each dog owned.

56.04 SUBSEQUENT APPLICATION. Such application for license may be made after July 1 at any time for a dog which has come into the possession or ownership of the applicant or which has reached the age of six (6) months.

56.05 FORM OF APPLICATION. The application shall be in writing on blanks provided by the Clerk and shall state the breed, sex, age, color, markings and name, if any, of the dog, and the address of the owner. The application shall be signed by the owner and shall also state the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated. A copy of the vaccine record and a picture of the dog shall be attached to the application.

56.06 LICENSE FEES. The license fee for any dog in the City is \$15.00 for three years (\$5.00/yr.). The fee shall accompany the application.

56.07 LICENSE TAGS. Upon receipt of the application and fee, the Clerk shall deliver or mail to the applicant a license, which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Clerk, and the name of the City. The license tag shall be securely attached by the owner to a substantial collar which shall be worn at all times by the dog for which issued. Upon the expiration of the license the owner shall remove said tag from the dog.

56.08 DURATION OF LICENSE. All licenses shall expire on July 1 of the of the third year after their date of issuance.

56.09 TRANSFER ON CHANGE OF OWNERSHIP. When the permanent ownership of a dog is transferred, the license may be transferred by the Clerk by notation on the license record, giving name and address of the new owner.

56.10 TRANSFER ON CHANGE OF RESIDENCE. When a dog licensed by a county or another city is permanently transferred to the City, the owner shall surrender the original license tag to the Clerk. The Clerk shall preserve the surrendered tag and, without license fee, issue a new license tag. The Clerk shall note on the license record the fact that the newly issued license tag is issued to effect a transfer of and is in lieu of such surrendered license tag.

56.11 TAG NOT TRANSFERABLE. A license tag issued for one dog shall not be transferred to another dog.

56.12 DUPLICATE TAGS. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of one dollar (\$1.00), and the Clerk shall enter in the license record the new number assigned.

56.13 DELINQUENCY. All license fees shall become delinquent on July 1 of the year in which they are due and payable, and a penalty of one dollar (\$1.00) shall be added to each unpaid license on and each month after said date.

56.14 RECORD BOOK. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.
2. A photograph or description of the dog as specified in the application, together with the name of the owner of the dog.
3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated.
4. The amount of all fees, licenses, penalties and costs paid to the Clerk.

56.15 DOG AS PROPERTY. All dogs under six (6) months of age and all dogs over said age and wearing a collar with a valid license tag attached thereto shall be deemed property. Dogs not so provided with license tag shall not be deemed property.

CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions

57.02 Running At Large

57.03 Keeping of Dangerous Animals Prohibited

57.04 Seizure, Impoundment and Disposition of Dangerous Animals

57.05 Keeping of Vicious Animals Prohibited

57.06 Seizure, Impoundment and Disposition of 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. “Dangerous animal” means:
 - A. Pit bulls meaning any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. (Ord. 12-100 – Apr. 13 Supp.)
 - B. Badgers, wolverines, weasels, mink and other Mustelids (except ferrets);
 - C. Black widow spiders and scorpions;
 - D. Raccoons, opossums and skunks.
3. “Dog” means and includes members of the canine species, male or female, whether neutered or not.
4. “Horse” means a solid-hoofed herbivorous mammal (*Equus caballus*).
5. “Kennel” means any premises on which four or more dogs or four or more cats, six months or older, are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint.
6. “Owner” or “owner of an animal” means any person owning, keeping, sheltering or harboring an animal.
7. “Pet shop” means any person, partnership or corporation engaged in the business of breeding, buying, selling or boarding animals of any species, except the operation of a kennel, agriculture or wildlife pursuits.
8. “Riding school” or “horse stable” means any person, partnership or corporation engaged in the business of teaching persons to ride horses, or providing horses to ride for a fee.
9. “Vicious animal” means any animal (except for a dangerous animal, as listed above): (i) which has attacked or bitten any person without provocation, or (ii) which has exhibited vicious propensities in present or past conduct by biting a person or

persons on any occasion, and which could not be controlled or restrained by the owner at the time of the bite to prevent the occurrence, or (iii) which has attacked or bitten any domestic animal or fowl on any occasion, or (iv) which has been found to possess such a propensity by the Council, after hearing.

57.02 RUNNING AT LARGE. It is unlawful for the owner of an animal, including but not limited to cats, dogs, cattle, horses, swine, sheep, fowl or any animal defined as dangerous or vicious by this chapter, to run at large within the corporate limits of the City. The owner shall be held responsible and subject to penalty for such violation. Each day an owner allows an animal to run at large shall be a separate offense subject to additional fines and penalties.

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

57.04 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous 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 animal control officer and/or the local law enforcement, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon written complaint of any individuals that a person is keeping, sheltering or harboring a dangerous animal on premises located in the City, the animal control officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the animal control officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal, within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the animal control officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

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

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. After such

hearing, the Council may affirm or reverse the order of the animal control officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the animal control officer, the Council shall order in its written decision that the individual or entity owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City or destroy it. The decision 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 or the order of the Council after appeal is not complied with within three (3) days of its issuance, the animal control officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the Council was issued has not petitioned the Louisa County 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 shall constitute a simple misdemeanor.

57.05 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a vicious animal as defined herein.

57.06 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

1. The animal control officer or his designee, in his discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined herein may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Council. The person, firm or corporation owning, keeping, sheltering or harboring the animal in question shall be given not less than seventy-two (72) hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the Council determines that an animal is vicious, the Council shall order the person, firm or corporation owning, sheltering or harboring or keeping the animal to remove it from the City, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the animal control officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity against whom the order of the Council was issued has not petitioned the Louisa County District Court for a review of said order, the animal control officer shall cause the animal to be destroyed.

3. Failure to comply with an order of the Council issued pursuant hereto shall constitute a misdemeanor offense.

4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the animal control officer may immediately destroy it or unless its ownership is not ascertainable, in which case the animal control officer may destroy it after three (3) days of impoundment.

5. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the City.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

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

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Morning Sun Traffic Code."

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.

10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

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

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the peace officer.
(*Code of Iowa, Sec. 372.13 [4]*)

60.04 POWER TO DIRECT TRAFFIC. A peace officer, and, in the absence of a peace officer, any officer of the fire department when at the scene of a fire, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.
(*Code of Iowa, Sec. 102.4 & 321.236[2]*)

60.05 TRAFFIC ACCIDENTS: REPORTS. The driver of a vehicle involved in an accident within the limits of the City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the City for the confidential use of peace officers and shall be subject to the provisions of Section 321.271 of the Code of Iowa.
(*Code of Iowa, Sec. 321.273 & 321.274*)

60.06 PEACE OFFICER’S AUTHORITY. A peace officer is authorized to stop a vehicle to require exhibition of the driver’s license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.
(*Code of Iowa, Sec. 321.492*)

60.07 OBEDIENCE TO PEACE OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control, or regulate traffic.
(*Code of Iowa, Sec. 321.229*)

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

1. “Parade” Defined. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

2. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or

general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.

3. Parade Not A Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.

4. Control By Peace Officers and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.06 Tampering with Vehicle
62.07 Obstructing View at Intersections
62.08 Reckless Driving
62.09 Open Containers in Motor Vehicles
62.10 Careless Driving

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
8. Section 321.99 – Fraudulent use of registration.
9. Section 321.174 – Operators licensed.
10. Section 321.174A – Operation of motor vehicles with expired license.
11. Section 321.180 – Instruction permits.
12. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.
13. Section 321.193 – Restricted licenses.
14. Section 321.194 – Special minor's licenses.
15. Section 321.216 – Unlawful use of license and nonoperator's identification card.
16. Section 321.216B – Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.
17. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.
18. Section 321.219 – Permitting unauthorized minor to drive.
19. Section 321.220 – Permitting unauthorized person to drive.
20. Section 321.221 – Employing unlicensed chauffeur.

21. Section 321.222 – Renting motor vehicle to another.
22. Section 321.223 – License inspected.
23. Section 321.224 – Record kept.
24. Section 321.232 – Radar jamming devices; penalty.
25. Section 321.234A – All-terrain vehicles.
26. Section 321.235A – Electric personal assistive mobility devices.
27. Section 321.247 – Golf cart operation on City streets.
28. Section 321.257 – Official traffic control signal.
29. Section 321.259 – Unauthorized signs, signals or markings.
30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
31. Section 321.262 – Damage to vehicle.
32. Section 321.263 – Information and aid.
33. Section 321.264 – Striking unattended vehicle.
34. Section 321.265 – Striking fixtures upon a highway.
35. Section 321.275 – Operation of motorcycles and motorized bicycles.
36. Section 321.278 – Drag racing prohibited.
37. Section 321.288 – Control of vehicle; reduced speed.
38. Section 321.295 – Limitation on bridge or elevated structures.
39. Section 321.297 – Driving on right-hand side of roadways; exceptions.
40. Section 321.298 – Meeting and turning to right.
41. Section 321.299 – Overtaking a vehicle.
42. Section 321.302 – Overtaking and passing.
43. Section 321.303 – Limitations on overtaking on the left.
44. Section 321.304 – Prohibited passing.
45. Section 321.306 – Roadways laned for traffic.
46. Section 321.307 – Following too closely.
47. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
48. Section 321.309 – Towing; convoys; drawbars.
49. Section 321.310 – Towing four-wheel trailers.
50. Section 321.312 – Turning on curve or crest of grade.
51. Section 321.313 – Starting parked vehicle.
52. Section 321.314 – When signal required.
53. Section 321.315 – Signal continuous.

- 54. Section 321.316 – Stopping.
- 55. Section 321.317 – Signals by hand and arm or signal device.
- 56. Section 321.319 – Entering intersections from different highways.
- 57. Section 321.320 – Left turns; yielding.
- 58. Section 321.321 – Entering through highways.
- 59. Section 321.322 – Vehicles entering stop or yield intersection.
- 60. Section 321.323 – Moving vehicle backward on highway.
- 61. Section 321.323A – Approaching certain stationary vehicles.
- 62. Section 321.324 – Operation on approach of emergency vehicles.
- 63. Section 321.324A – Funeral processions.
- 64. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 65. Section 321.330 – Use of crosswalks.
- 66. Section 321.332 – White canes restricted to blind persons.
- 67. Section 321.333 – Duty of drivers.
- 68. Section 321.340 – Driving through safety zone.
- 69. Section 321.341 – Obedience to signal of train.
- 70. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 71. Section 321.343 – Certain vehicles must stop.
- 72. Section 321.344 – Heavy equipment at crossing.
- 73. Section 321.344B – Immediate safety threat; penalty.
- 74. Section 321.354 – Stopping on traveled way.
- 75. Section 321.359 – Moving other vehicle.
- 76. Section 321.362 – Unattended motor vehicle.
- 77. Section 321.363 – Obstruction to driver's view.
- 78. Section 321.364 – Preventing contamination of food by hazardous material.
- 79. Section 321.365 – Coasting prohibited.
- 80. Section 321.367 – Following fire apparatus.
- 81. Section 321.368 – Crossing fire hose.
- 82. Section 321.369 – Putting debris on highway.
- 83. Section 321.370 – Removing injurious material.
- 84. Section 321.371 – Clearing up wrecks.
- 85. Section 321.372 – School buses.
- 86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.

87. Section 321.381A – Operation of low-speed vehicles.
88. Section 321.382 – Upgrade pulls; minimum speed.
89. Section 321.383 – Exceptions; slow vehicles identified.
90. Section 321.384 – When lighted lamps required.
91. Section 321.385 – Head lamps on motor vehicles.
92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 – Rear lamps.
94. Section 321.388 – Illuminating plates.
95. Section 321.389 – Reflector requirement.
96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
99. Section 321.394 – Lamp or flag on projecting load.
100. Section 321.395 – Lamps on parked vehicles.
101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
105. Section 321.404A – Light-restricting devices prohibited.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
111. Section 321.417 – Single-beam road-lighting equipment.
112. Section 321.418 – Alternate road-lighting equipment.
113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
115. Section 321.421 – Special restrictions on lamps.
116. Section 321.422 – Red light in front.
117. Section 321.423 – Flashing lights.
118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.

121. Section 321.433 – Sirens, whistles and bells prohibited.
122. Section 321.434 – Bicycle sirens or whistles.
123. Section 321.436 – Mufflers, prevention of noise.
124. Section 321.437 – Mirrors.
125. Section 321.438 – Windshields and windows.
126. Section 321.439 – Windshield wipers.
127. Section 321.440 – Restrictions as to tire equipment.
128. Section 321.441 – Metal tires prohibited.
129. Section 321.442 – Projections on wheels.
130. Section 321.444 – Safety glass.
131. Section 321.445 – Safety belts and safety harnesses; use required.
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133. Section 321.449 – Motor carrier safety regulations.
134. Section 321.450 – Hazardous materials transportation.
135. Section 321.454 – Width of vehicles.
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138. Section 321.457 – Maximum length.
139. Section 321.458 – Loading beyond front.
140. Section 321.460 – Spilling loads on highways.
141. Section 321.461 – Trailers and towed vehicles.
142. Section 321.462 – Drawbars and safety chains.
143. Section 321.463 – Maximum gross weight.
144. Section 321.465 – Weighing vehicles and removal of excess.
145. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

62.04 CLINGING TO VEHICLE. No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person riding upon any bicycle, coaster, roller skates, in-line skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

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

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

62.07 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.

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

(Code of Iowa, Sec. 321.277)

62.09 OPEN CONTAINERS IN MOTOR VEHICLES.

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

(Code of Iowa, Sec. 321.284)

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

(Code of Iowa, Sec. 321.284A)

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

62.10 CARELESS DRIVING. No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.

2. Simulating a temporary race.

3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
4. Causing the vehicle to unnecessarily turn abruptly or sway.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – Twenty (20) miles per hour.
2. Residence or School District – Twenty-five (25) miles per hour.
3. Suburban District – Forty-five (45) miles per hour.

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Any public alley
2. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Any school zone
3. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

- A. Any suburban district
- 4. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Highway 78 in City limits

63.05 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns

64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district and at the following designated intersections.

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

- NONE -

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Required

65.02 Three-Way Stop Intersections

65.03 Four-Way Stop Intersections

65.04 Yield Required

65.05 School Stops

65.06 Stop Before Crossing Sidewalk

65.07 Stop When Traffic Is Obstructed

65.08 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Washington Street. Vehicles traveling south on Washington Street shall stop at Manor Road;
2. Kearney Street. Vehicles traveling on Kearney Street shall stop at NW Third Street;
3. Kearney Street. Vehicles traveling on Kearney Street shall stop at NW First Street;
4. Washington Street. Vehicles traveling north on Washington Street shall stop at NW First Street;
5. Washington Street. Vehicles traveling north on Washington Street shall stop at NW Third Street;
6. Kearney Street. Vehicles traveling south on Kearney Street shall stop at Manor Road;
7. Main Street. Vehicles traveling south on Main Street shall stop at Highway 78;
8. NW Fourth Street. Vehicles traveling east on NW Fourth Street shall stop at Main Street;
9. NW Third Street. Vehicles traveling on NW Third Street shall stop at Main Street;
10. NW Third Street. Vehicles traveling west on NW Third Street shall stop at Church Street;
11. NW Third Street. Vehicles traveling east on NW Third Street shall stop at Blair Street;
12. NW Second Street. Vehicles traveling east on NW Second Street shall stop at Blair Street;
13. NW First Street. Vehicles traveling on NW First Street shall stop at Main Street;
14. NW First Street. Vehicles traveling east on NW First Street shall stop at Elm Street;

15. Division Street. Vehicles traveling west on Division Street shall stop at Washington Street;
16. SE First Street. Vehicles traveling west on SE First Street shall stop at Washington Street;
17. SE Second Street. Vehicles traveling west on SE Second Street shall stop at Washington Street;
18. NW Second Street. Vehicles traveling west on NW Second Street shall stop at Washington Street;
19. NW Second Street. Vehicles traveling on NW Second Street shall stop at Kearney Street;
20. NW Second Street. Vehicles traveling on NW Second Street shall stop at Main Street;
21. NW Second Street. Vehicles traveling on NW Second Street shall stop at Church Street;
22. SE First Street. Vehicles traveling on SE First Street shall stop at Kearney Street;
23. SE Second Street. Vehicles traveling on SE Second Street shall stop at Kearney Street;
24. SE Third Street. Vehicles traveling west on SE Third Street shall stop at Kearney Street;
25. SE First Street. Vehicles traveling east on SE First Street shall stop at Main Street;
26. SE Second Street. Vehicles traveling on SE Second Street shall stop at Main Street;
27. SE Third Street. Vehicles traveling on SE Third Street shall stop at Main Street;
28. SE Fourth Street. Vehicles traveling west on SE Fourth Street shall stop at Main Street;
29. Manor Road. Vehicles traveling east on Manor Road shall stop at Main Street;
30. SE Sixth Street. Vehicles traveling west on SE Sixth Street shall stop at Main Street;
31. Church Street. Vehicles traveling south on Church Street shall stop at Highway 78;
32. Blair Street. Vehicles traveling south on Blair Street shall stop at Highway 78;
33. SE Sixth Street. Vehicles traveling on SE Sixth Street shall stop at Church Street;
34. SE Fifth Street. Vehicles traveling west on SE Fifth Street shall stop at Church Street;

35. SE Fourth Street. Vehicles traveling on SE Fourth Street shall stop at Church Street;
36. SE Third Street. Vehicles traveling on SE Third Street shall stop at Church Street;
37. SE Second Street. Vehicles traveling east on SE Second Street shall stop at Church Street;
38. NE First Street. Vehicles traveling on NE First Street shall stop at Church Street;
39. Manor Road. Vehicles traveling west on Manor Road shall stop at Highway 78;
40. Blair Street. Vehicles traveling on Blair Street shall stop at NE First Street;
41. Blair Street. Vehicles traveling on Blair Street shall stop at Division Street;
42. SE Second Street. Vehicles traveling on SE Second Street shall stop at Blair Street;
43. SE Third Street. Vehicles traveling on SE Third Street shall stop at Blair Street;
44. SE Fourth Street. Vehicles traveling on SE Fourth Street shall stop at Blair Street;
45. SE Fifth Street. Vehicles traveling on SE Fifth Street shall stop at Blair Street;
46. SE Sixth Street. Vehicles traveling east on SE Sixth Street shall stop at Blair Street;
47. Colton Street. Vehicles traveling on Colton Street shall stop at Division Street;
48. Wilmering Street. Vehicles traveling on Wilmering Street shall stop at Division Street;
49. Wilmering Street. Vehicles traveling on Wilmering Street shall stop at NE First Street;
50. SE Second Street. Vehicles traveling east on SE Second Street shall stop at Wilmering Street;
51. SE Third Street. Vehicles traveling east on SE Third Street shall stop at Wilmering Street;
52. Vine Street. Vehicles traveling south on Vine Street shall stop at Division Street;
53. Vine Street. Vehicles traveling on Vine Street shall stop at NE First Street;
54. Maple Street. Vehicles traveling south on Maple Street shall stop at NE First Street;
55. Maple Street. Vehicles traveling south on Maple Street shall stop at Division Street;

56. Union Street. Vehicles traveling on Union Street shall stop at NE First Street;
57. Union Street. Vehicles traveling on Union Street shall stop at Division Street;
58. Elm Street. Vehicles traveling south on Elm Street shall stop at Division Street;
59. Front Street. Vehicles traveling north on Front Street shall stop at Division Street;
60. SE First Street. Vehicles traveling east on SE First Street shall stop at Front Street;
61. SE First Street. Vehicles traveling west on SE First Street shall stop at Union Street;
62. SE Corner of Intersection of S. Maple Street and E. Division Street. Vehicles traveling north on S. Maple Street shall stop at E. Division Street;
63. NE Corner of the Intersection of S. Maple Street and SE First Street. Vehicles traveling west on SE First Street shall stop at S. Maple Street;
64. NE Corner of the Intersection of S. Maple Street and SE Second Street. Vehicles traveling east on SE Second Street shall stop at S. Maple Street;
65. SW Corner of the Intersection of S. Union Street and SE First Street. Vehicles traveling east on SE First Street shall stop at S. Union Street;
66. SW Corner of the Intersection of S. Union Street and SE Second Street. Vehicles traveling east on SE Second Street shall stop at S. Union Street.

65.02 THREE-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated three-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Main Street and Division Street. Vehicles approaching the intersection of Main Street and Division Street from the north, south and east shall stop before entering such intersection.
2. Kearney Street and Division Street. Vehicles approaching the intersection of Kearney Street and Division Street from the north, south and west shall stop before entering such intersection.
3. Division Street and Vine Street. Vehicles approaching the intersection of Division Street and Vine Street from the north, east and west shall stop before entering such intersection.

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Intersection of Division Street and Church Street.
2. Intersection of Division Street and Wilmering Street.
3. Intersection of N.E. First Street and N. Church Street.
4. Intersection of N.E. First Street and N. Vine Street.

(Subsections 3-4 - Ord. 09-103 – Apr. 13 Supp.)

5. Intersection of N.E. First Street and N. Blair Street.

(Ord. 10-100 – Apr. 13 Supp.)

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

(Code of Iowa, Sec. 321.345)

— NONE —

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

(Code of Iowa, Sec. 321.249)

— NONE —

65.06 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

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

65.08 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

66.05 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

- NONE -

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

(Code of Iowa, Sec. 321.471)

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

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

(Code of Iowa, Sec. 321.473)

A. Division Street from east City limits to Main Street;

- B. Main Street from north City limits to Iowa Highway 78;
- C. Blair Street from Division Street to Iowa Highway 78.

2. Deliveries Off Truck Route. Any motor vehicle weighing five (5) 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
67.02 Hitchhiking

67.03 Pedestrian Crossing

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. Division Street shall be westbound only from Main Street to Kearney Street.

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb

69.02 Park Adjacent to Curb – One-way Street

69.03 Angle Parking

69.04 Angle Parking – Manner

69.05 Parking for Certain Purposes Illegal

69.06 Parking Prohibited

69.07 Persons With Disabilities Parking

69.08 No Parking Zones

69.09 Snow and Ice Removal

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Division Street on the north side from Church Street to Kearney Street;
2. Division Street on the south side from Church Street to Main Street.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than forty-eight (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.

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

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

other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

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

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

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

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

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

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

B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the Code of Iowa;

- C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.
- 3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
 - A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A (1) of the Code of Iowa when utilizing a wheelchair parking cone.
 - B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A (1) of the Code of Iowa.

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

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

- NONE -

69.09 SNOW AND ICE REMOVAL. Vehicles shall be parked at least three (3) feet off the surfaced roads of the City for purposes of snow and ice removal during the hours of two o'clock (2:00) a.m. to six o'clock (6:00) a.m. during the months of December, January, February and March, and the Clerk shall publish a Public Notice in the *Morning Sun News Herald* to the above effect in the first issue published in each of these months.

(Code of Iowa, 321.236[1])

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine of five dollars (\$5.00) payable at the office of the City Clerk. 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 [1a])

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

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. “All-terrain vehicle” or “ATV” means a motorized flotation-tire vehicle, with not less than three and not more than six low pressure tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 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 flotation-tire vehicle, with not less than four and not more than six low pressure tires, that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

4. “Snowmobile” means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks or treads.

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the

Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

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

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

- A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

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

- B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

- (2) The snowmobile is brought to a complete stop before crossing the street;

- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

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

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

3. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

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

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

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

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk

or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1 & 3])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

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

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Carrying Articles
76.02 Traffic Code Applies	76.09 Riding on Sidewalks
76.03 Double Riding Restricted	76.10 Towing
76.04 Two Abreast Limit	76.11 Improper Riding
76.05 Bicycle Paths	76.12 Parking
76.06 Speed	76.13 Equipment Requirements
76.07 Emerging from Alley or Driveway	76.14 Special Penalty

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

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

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

76.05 BICYCLE PATHS. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

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

76.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

76.07 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians

approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

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

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

76.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

76.11 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

76.13 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

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

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1])

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

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

abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

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

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay twenty-five dollars (\$25.00) if claimed within five (5) days of impounding, plus ten dollars (\$10.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Permit	90.15 Interior Valve
90.06 Fee for Permit and Connection Charge	90.16 Inspection and Approval
90.07 Compliance with Plumbing Code	90.17 Completion by the City
90.08 Plumber Required	90.18 Shutting off Water Supply
90.09 Excavations	90.19 Operation of Curb Valve and Hydrants
90.10 Tapping Mains	

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "Waterworks" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 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 sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay ten dollars (\$10.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of twenty-five dollars (\$25.00) paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served, plus fifty percent (50%) of the cost from the main to property line upon approval of the Council.

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the *State Plumbing Code*.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Mayor shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Mayor shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Mayor shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premise may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the property line to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

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

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so

located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

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

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

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

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

CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems – Exception
91.04 Location of Meters

91.05 Meter Setting
91.06 Meter Costs
91.07 Meter Repairs
91.08 Right of Entry
91.09 Meter Testing

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS – EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.08 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.09 METER TESTING. The Superintendent or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% 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 5% of the total water bill and not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay a testing charge of \$25.00.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued
92.06 Lien for Nonpayment

92.07 Lien Exemption
92.08 Lien Notice
92.09 State Income Offset Program
92.10 Deposits for Water
92.11 Temporary Vacancy

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 1,000 gallons	\$12.00 (minimum bill)
All over 1,000	\$5.70 per 1,000 gallons

This applies to all water customers and there shall be no exceptions for any customers. Meters larger than one inch in diameter shall have a minimum charge of ten dollars (\$10.00) per inch.

(Ord. 11-104 – Apr. 13 Supp.)

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

(Code of Iowa, Sec. 364.4[2] & 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. Reading Meters. City employees will read all outside remote water meters.
2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the tenth (10th) day of each month.
3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the last working day of the month.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.
5. Non-Sufficient Funds (NSF) Check Fees. The City shall charge the State of Iowa allowable limit on all returned checks.

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

(Code of Iowa, Sec. 384.84)

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

(Ord. 08-101 – Nov. 08 Supp.)

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Mayor's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. Fees. A fee of twenty-five dollars (\$25.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.
5. Posting Fees. The charge for posting of a 24-hour notice on a residence or business is \$20.00 per location. If the posting is also done in conjunction with posting a 24-hour notice for gas disconnection, only one \$20.00 fee is to be charged per residence posted.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30)

business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Ord. 08-101 – Nov. 08 Supp.)

(Code of Iowa, Sec. 384.84)

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

(Ord. 08-101 – Nov. 08 Supp.)

(Code of Iowa, Sec. 384.84)

92.09 STATE INCOME OFFSET PROGRAM. The City of Morning Sun participates in the Iowa Department of Administrative Services Income Offset Program. If a final bill doesn't get paid, the City may turn the bill over to the State Income Offset Program to be collected from payments due to customers from the State, such as State income tax refunds, lottery winnings, etc.

(Ord. 11-102 – Apr. 13 Supp.)

92.10 DEPOSITS FOR WATER.

1. All new customers are required to pay a deposit for water in the amount of one hundred dollars (\$100.00). It shall be the responsibility of the City to monitor existing customer accounts, and if a customer receives two 24-hour notices within a 12-month period, the Clerk will send a letter notifying the customer that the deposit will be increased to a total deposit of two hundred dollars (\$200.00) if they receive the third 24-hour notice within that same 12-month period. This increased deposit may be paid in one lump sum or in monthly installments, whichever the customer prefers.
2. A customer does not receive the deposit until resident moves from their residence and their account is closed. The Clerk will issue a check for the deposit balance after final bill by check.
3. The charge for posting of a 24-hour notice on a residence or business is \$50.00 per location.
4. All landlords are to notify the City of Morning Sun if they want to have their rental property account(s) in their name or the tenant's name before the tenant moves in. This will be done by filling out the agreement form with the City. The bill for the account will be sent to where the landlord instructs the City to send it. If the landlord requests that the account be set up in the tenant's name, the landlord must fill out the agreement form. If the landlord determines that the tenant is going to be the responsible party on the account, and if the tenant fails to pay as required and the utilities are shut off, the landlord will not receive notification of such unless requested by the landlord. All tenants will be required to pay a deposit in the amount of one hundred dollars (\$100.00) and fill out an application with the City. All rules as stated in subsection 1 will apply to the tenant.

(Ord. 11-102 – Apr. 13 Supp.)

92.11 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a ten dollar (\$10.00) fee collected for shutting the water off at the curb valve and a ten dollar (\$10.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies. *(Renumbered by Ord. 11-102 – Apr. 13 Supp.)*

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CHAPTER 93

WATER LINE EXTENSIONS

93.01 Purpose

93.02 Definitions

93.03 Construction by City

93.04 Construction by Owner

93.05 Connection Charge

93.06 Rights of City

93.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of water mains to serve property not served by an existing water line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

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

1. “Builder” means the owner of land who causes a water main to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.
2. “Estimated cost” means a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances. All such estimates are subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, the materials to be used or installation methods, the determination of the Council shall be final and conclusive.

93.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a property or a public street where no water main has been installed may make application to the Council for the installation of a water main along such property and in the street for the purpose of serving the property in accordance with the following:

1. Application and Deposit. A written request for such installation, and a sum equal to the total estimated cost of the installation from the point where the water main is presently installed and terminates to the point where the most distance boundary of the owner’s lot abuts an adjoining property or the public street, shall be submitted to the Council.
2. Construction. Upon receipt of the deposit, the City shall construct the water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. Additional Costs. In the event the actual cost to the City of installation of the water main is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the water main, the landowner

shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. **Maximum Cost.** The additional cost of installation, as contemplated in subsections 3 and 4 above, shall not exceed one hundred ten percent (110%) of the estimated cost.

6. **Connecting Property.** The expense of connecting the property of the builder to the water main shall be borne by the builder, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the City.

93.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a property or public street in which no water main has been previously installed desires to construct said water main at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a water main, in accordance with the following:

1. **City Supervision.** The installation of such a water main by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. **Surety Bond.** When making application to the City for a permit to install such a water main, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing water main to the point where the farthest boundary of the applicant's land abuts the property or street, and the bond shall guarantee the installation of the water main in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to public property incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the water main.

3. **Ownership of Water Main.** After the water main has been installed, it shall become the property of the City.

4. **Cost Approval.** For purposes of determining connection charges under Section 93.05 below, costs incurred by the owner shall be certified by the City and only so much of said costs as are approved by the City shall be used in determining connection charges as provided hereafter.

93.05 CONNECTION CHARGE. Following the installation of an extension to the water system under the provisions of this chapter, there shall be paid to the City a connection charge in an amount equal to one-half (½) the lineal construction cost for the full width of any lot, tract or parcel of ground to be served by a connection to such water main. Such connection charge shall be paid to the City prior to making any connection to said water main.

93.06 RIGHTS OF CITY. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

CHAPTER 94

WATER CONSERVATION

94.01 Water Shortages
94.02 Conditions
94.03 Water Watch
94.04 Water Warning — Tier I
94.05 Water Warning — Tier II
94.06 Penalties
94.07 Water Emergency

94.08 Base Allocation
94.09 Appeal and Adjustment of the Base Allocation
94.10 Premium Rate for Imprudent Consumption
94.11 Adjustment of Premium Rate Charges
94.12 Water Appeal Board
94.13 Municipal Infraction
94.14 Reduction in Flow of Water to Any Person

94.01 WATER SHORTAGES. From time to time during and following drought conditions, or due to equipment failure, the City water supply may become significantly and seriously depleted so that there will not then be a sufficient supply of water to meet all customary and usual demands. Under these conditions, the Council may find, and declare by resolution, a public Water Watch, Water Warning or Water Emergency during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction of water consumption until, by resolution, the Council finds and declares the water shortage condition to be ended.

94.02 CONDITIONS.

1. Water Watch. A Water Watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a Water Watch include:

- A. System operating at seventy-five percent (75%) of pumping capacity;
- B. Moderate decrease in the pumping water level of wells or moderate decrease in recovery rate of water level in wells;
- C. Moderate decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

2. Water Warning. A Tier I or Tier II Water Warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water system to meet the needs of its customers currently and in the foreseeable future. Indicators of the need to impose a Tier I Water Warning include:

- A. System operating at eighty-five percent (85%) of pumping capacity;
- B. Significant decrease in the pumping water level of wells or significant decrease in recovery rate of water level in wells;
- C. Significant decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

Indicators of the need to impose a Tier II Water Warning include severe system emergencies such as a chemical spill or major system failure in feeder mains or treatment plant.

3. Water Emergency. A Water Emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a Water Emergency include:

- A. System operating at ninety-five percent (95%) of pumping capacity;
- B. Serious decrease in the recovery rate of water level in wells;
- C. Serious decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

94.03 WATER WATCH. Under a Water Watch, all customers of the City water supply are encouraged to limit or curtail all nonessential uses of water in order to conserve precious water resources during the time of shortage. Customers may be encouraged to comply with the following voluntary standards:

- 1. No watering of lawns, shrubs or gardens between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m.
- 2. No water should be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
- 3. No water should be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
- 4. No water should be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
- 5. Water should be served at restaurants only upon the request of the customer.

94.04 WATER WARNING — TIER I. Under a Tier I Water Warning, no person shall use potable processed water of the City water service in any manner contrary to the following:

- 1. Outdoor watering or irrigation of lawn is prohibited.
- 2. Outdoor watering of any kind is prohibited between the hours of eight o'clock (8:00) p.m. and eight o'clock (8:00) p.m. daily.
- 3. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than four (4) years old and new seedling or sod is permitted once per week with an application not to exceed one (1) inch.
- 4. Car washing is prohibited except in commercial establishments that provide that service.
- 5. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
- 6. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
- 7. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
- 8. Water shall be served in restaurants only upon the request of the customer.

9. Use of water-consuming comfort air conditioning equipment which consumes in excess of five percent (5%) of the water circulating in such equipment is prohibited.
10. Tankload water sales may be curtailed or eliminated.

Water reclaimed or recycled after some other primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from sources other than the City water utility, such as water condensed from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction.

94.05 WATER WARNING — TIER II. Under a Tier II Water Warning, no person shall use potable processed water of the City water supply in any manner contrary to the following:

1. All outside water use, except for domestic, sanitation and fire, is prohibited.
2. All commercial and industrial uses of water not essential in providing products or services is prohibited.
3. Irrigation of agricultural crops is prohibited.
4. Recreational and leisure water use, including lawn and golf course watering and other incidental or recreational uses, is prohibited.
5. Water use not necessary for the preservation of life or the general welfare of the community is prohibited.

94.06 PENALTIES. The following penalties shall apply for violation of Water Warning or Water Emergency use restrictions imposed under this chapter.

1. First Violation. For a first violation, the City shall issue a written notice of violation to the water user violating the water use restrictions imposed during a Water Warning or Water Emergency.
2. Second Violation. For a second violation within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill.
3. Subsequent Violations. For any subsequent violations within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill, and in addition, the City shall interrupt water service to that customer at the premises at which the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violations of Water Warning or Water Emergency use restrictions will not occur.

Any customer charged with a violation of the Water Warning or Water Emergency use restrictions may request a hearing before the Water Appeal Board. The Water Appeal Board may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

94.07 WATER EMERGENCY. Under a Water Emergency, Tier I Water Warning use restrictions shall be in effect and, in addition, each customer will be afforded a monthly base allocation of water.

94.08 BASE ALLOCATION. The base allocation of water for residential use shall be 3,000 gallons per household per month. For commercial, industrial or institutional use, the base allocation shall be established by resolution as a percentage of the average water used during the previous winter (November through April).

94.09 APPEAL AND ADJUSTMENT OF THE BASE ALLOCATION. Any person may file an appeal with the Water Appeal Board to adjust the base allocation amount. The Water Appeal Board may grant an adjustment to the appellant based upon the following criteria:

1. For single-family residential use, the base allocation may be increased by 1,000 gallons per person per billing period for all individuals residing at the appellant's residence for a period of more than thirty (30) days.
2. For commercial, industrial, institutional or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer; such as usage, production, service and occupancy data provided by the customer.

94.10 PREMIUM RATE FOR IMPRUDENT CONSUMPTION. In addition to the water rates duly enacted by the Council, all persons shall pay a premium rate of \$1.00 per 100 gallons of water consumed in excess of the base allocation.

94.11 ADJUSTMENT OF PREMIUM RATE CHARGES. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the Water Appeal Board. The Water Appeal Board may grant an adjustment of the premium rate charges in accordance with the following criteria:

1. Adjustments may be granted for overconsumption due to mechanical failures such as broken or leaky pipes or fixtures but not for overconsumption due to human carelessness.
2. The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a licensed plumber's invoice or statement or a materials receipt.
3. The adjustment shall be granted only for the billing period prior to the correction of the failure.
4. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be forty percent (40%) of the actual bill which shall include the premium rate charges and sales tax.

94.12 WATER APPEAL BOARD. A Water Appeal Board shall be appointed during any Water Warning or Water Emergency. The Water Appeal Board shall consist of the Mayor, the Public Works Director and three representatives of the community who shall be appointed by the Mayor with the approval of the Council. The Water Appeal Board shall hear appeals of any action taken pursuant to a Water Warning or Water Emergency, except that, if a customer is charged with a municipal infraction relating to this chapter, that proceeding shall be conducted pursuant to Section 364.22 of the Code of Iowa.

94.13 MUNICIPAL INFRACTION. A second or subsequent violation of the Water Warning or Water Emergency use restrictions by any person within a 12-month period constitutes a municipal infraction. Any person who, in making application to the Water

Appeal Board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction.

94.14 REDUCTION IN FLOW OF WATER TO ANY PERSON. The Public Works Director is authorized, after giving notice and opportunity for hearing before the Water Appeal Board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this chapter during a Water Warning or Water Emergency.

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CHAPTER 95

SANITARY SEWER SYSTEM

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

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

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

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

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates, fees, or rentals levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

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

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the

Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee and Connection Charge

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount of twenty-five dollars (\$25.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of one hundred twenty-five dollars (\$125.00) paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Mayor shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Mayor shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Mayor shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the minimum sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code*, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Minimum grade of one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity of 2.00 feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR26 - A.S.T.M. D-3034

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

- 1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
- 2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges – Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

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

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

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

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

weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

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

sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

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

1. **Rejection.** Reject the wastes by requiring disconnection from the public sewage system;
2. **Pretreatment.** Require pretreatment to an acceptable condition for discharge to the public sewers;
3. **Controls Imposed.** Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

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

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

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

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions

98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage
98.09 Minimum Lot Area

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

(IAC, 567-69.1[3])

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

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

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 fifteen hundred (1500) square feet.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Sewer User Charge

99.03 Special Rates

99.04 Private Water Systems

99.05 Payment of Bills

99.06 Lien for Nonpayment

99.07 Deposits for Sewer

99.08 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

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

1. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this section shall be as follows:

A. "Operation and maintenance" means all expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for the managing and maintaining the treatment works to achieve the capacity and performance for which such works were designed and constructed.

B. "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

C. "Treatment works" means the devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate temporary storage of such compost, and land used for the storage of treated wastewater in land abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

D. "Useful life" means the estimated period during which a treatment works will be operated.

E. "User charge" means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

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

3. Establishment of Funds. That portion of the total user charge collected which is designated for operation and maintenance including replacement purposes as established in Subsection 4 shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund and will be kept in two primary accounts as follows:

A. An account designated for the specific purpose of defraying operation and maintenance costs (excluding replacement) of the treatment works (Operation and Maintenance Account).

B. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works (Replacement Account). Because this Replacement Account was to be initiated in April 1996, and was not implemented, it is hereby understood that this fund is in arrears of the total deposits required as set forth in the original account structure. Therefore, the following funds will be made available for the Replacement Account and will be implemented quarterly beginning in January 2001, even though substantial time has elapsed, and substantial opportunity to receive revenues to fund this account have elapsed. Deposits in the Replacement Account shall continue to be made at least quarterly from revenue in the amount of \$6,200.00 annually.

4. Temporary User Rate Structure. Until further study is completed and the Council determines necessary changes, the following rates will apply on a temporary basis. They are the same rates as have been in effect for many years. Determination of a more permanent necessary user rate structure will be based on review of the wastewater system's revenues and expenses over the past several years, as well as anticipated future expenditures. These evaluations, prepared by the Clerk and subsequently reviewed by the Mayor and Council, are to be completed by the end of the first quarter of 2001, with passage of a wastewater user rate ordinance implementing more permanent user rates based on those observations to be made within that time frame. The current rate structure that will continue unadjusted from past months includes the following:

A. Each user shall pay for the services provided by the City based on use of the treatment works as determined by water meters acceptable to the City and as described and set forth below.

Minimum Charge (to include up to 2000 units)...	\$ 12.00
Next 3000 units	\$.0040 per unit
Next 5000 units	\$.0034 per unit
Additional units up to 9,999,999,999	\$.0026 per unit
<i>(Ord. 11-101 – Apr. 13 Supp.)</i>	

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

6. **Application.** The user charge rates established in this section shall apply to all users, whether residential, commercial, industrial, agricultural or other type of user, of the City treatment works, regardless of their location.

7. **Charge Review.** The City will review the user charge system every six (6) months by having the Clerk prepare a report detailing the revenues, expenditures and after conferring with the Wastewater Manager, prepare anticipated expenses involved in operation of the wastewater treatment system for the City. After review these same user rates will be revised as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and any user classes.

8. **Charges to Have Priority.** By enacting the ordinance codified by this section, the City and its contributors agree that the charges established herein have priority over any terms and conditions of agreements or contracts between the City and users which are inconsistent with the requirements of Section 204(b)(1)(A) of the Clean Water Act and corresponding regulations.

99.03 SPECIAL RATES. Where, in the judgment of the Mayor and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Mayor and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

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

(Code of Iowa, Sec. 384.84)

99.07 DEPOSITS FOR SEWER. The deposit for sewer service is included in the water deposit.

99.08 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.

CHAPTER 100

SEWER EXTENSIONS

100.01 Purpose

100.02 Definition

100.03 Construction by City

100.04 Construction by Owner

100.05 Others Required to Connect

100.06 Building Sewers Installed

100.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of sewers to serve property not served by an existing sewer line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

100.02 DEFINITION. For the purpose of this chapter, “builder” means the owner of land who causes a sanitary sewer to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

100.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a public street where no sanitary sewer has been installed may make application to the Council for the installation of a sanitary sewer in said street for the purpose of serving the property in accordance with the following:

1. **Application and Deposit.** A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts the said public street, shall be submitted to the Council.
2. **Construction.** Upon receipt of the deposit, the City shall construct the sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. **Additional Costs.** In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. **Lien Authorized.** In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the sanitary sewer, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.
5. **Connecting Property.** The expense of connecting the property of the builder to the sanitary sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

100.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct said sewer at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a sewer, in accordance with the following:

1. City Supervision. The installation of such a sewer by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.
2. Surety Bond. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing sewer to the point where the farthest boundary of the applicant's land abuts the public street, and the bond shall guarantee the installation of the sewer in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to the public street incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the sanitary sewer.
3. Ownership of Sewer Line. After the sewer has been installed, it shall become the property of the City.

100.05 OTHERS REQUIRED TO CONNECT. Following the installation of a sanitary sewer under the provisions of this chapter, owners of land abutting or adjoining a public street in which such sewer has been installed, being persons other than the builder, shall be obliged to connect any sewage generating facilities into said sanitary sewer, as required by Chapter 95.

100.06 BUILDING SEWERS INSTALLED. Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the City or by a private party, shall include a stub to each abutting or adjoining lot line of the street or right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the City with an accurate map showing the location of each of such stubs within thirty (30) days of the completion of the installation.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.09 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.10 Waste Storage Containers
105.05 Open Burning Restricted	105.11 Prohibited Practices
105.06 Separation of Yard Waste Required	105.12 Sanitary Disposal Project Designated

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit or drop.
(Code of Iowa, Sec. 455B.361[2])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.
(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.
(Code of Iowa, Sec. 455B.361[1])
7. “Owner” means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.
(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including four (4) separate dwelling units.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

(Code of Iowa, Sec. 455B.301)

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially

declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ($\frac{1}{4}$) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

A. Yard waste may be burned on the premises from the first Monday in September through the first Saturday in December and the first Monday in March through the last Saturday in May.

B. Yard waste may be burned during those periods on any day of the week from 8:00 a.m. to sunset.

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3i])

9. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the

controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned in accordance with Section 105.05(4) on the premises. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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

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

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

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

(IAC, 567-100.2)

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

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than twenty (20) gallons or more than thirty-three (33) gallons in nominal capacity, and shall be leakproof and waterproof. The total weight of any container and contents shall not exceed forty (40) pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

- (1) Be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container;
- (2) Have handles, bails or other suitable lifting devices or features;
- (3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;
- (4) Be of lightweight and sturdy construction.

Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at the curb by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Des Moines County Regional Solid Waste Commission are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

CHAPTER 106

COLLECTION OF SOLID WASTE

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

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

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

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

(IAC, 567-104.9[455B])

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

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

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

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

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are

conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES.

1. Schedule of Fees. There shall be collected by the City for the services of collecting garbage and rubbish the following mandatory charges, collected monthly following the period for which the charge is due from each residence with street pickup of one garbage or rubbish collection each week (not to exceed two cans or two disposable garbage and refuse containers):

A. Rate. \$15.00 per month for each resident (\$14.00 for garbage and \$1.00 for recycling) or \$14.00 per month for each resident over 65 years of age (\$13.00 for garbage and \$1.00 for recycling); (*Ord. 10-101 – Apr. 13 Supp.*)

B. Additional Charge. Additional garbage and rubbish over the weekly limit requires a \$1.00 tag per container or bag.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

3. Solid waste collection service may be discontinued if payment is not made within 45 days after due date, and an additional fee of \$15.00 shall be charged.

4. Late Payment Penalty. Fees not paid when due shall be deemed delinquent and a penalty charge of fifty cents (\$.50) shall be paid with and at the time of paying for collection as herein provided.

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

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

GAS UTILITY

110.01 Purpose

110.02 Policy Direction

110.03 Superintendent

110.04 Service Rules and Regulations

110.05 Rates

110.06 Variable Gas Price Adjustment

110.07 Payment of Bills

110.08 Enforcement for Nonpayment

110.09 State Income Offset Program

110.10 Gas Operators Qualification Program

110.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned gas system.

110.02 POLICY DIRECTION. The Mayor and Council shall establish appropriate rules and regulations governing the operation and maintenance of the gas system.

110.03 SUPERINTENDENT. The superintendent shall be responsible for execution of policies governing the system as established by the Council.

110.04 SERVICE RULES AND REGULATIONS. The rules and regulations for gas service are contained in the *Municipal Gas Utility of the City of Morning Sun Tariff*, on file with the Utilities Division of the Iowa Department of Commerce. Also, an official copy of the rules and regulations as adopted is now on file in the office of the Clerk. The rules and regulations contained therein shall apply to all users of the municipal gas system.

110.05 RATES.

1. All new customers are required to pay a gas deposit in the amount of two hundred dollars (\$200.00). It shall be the responsibility of the City to monitor existing customer accounts, and if a customer receives two 24-hour notices within a 12-month period, the Clerk will send a letter notifying the customer that the deposit will be increased to a total deposit of three hundred dollars (\$300.00) if they receive the third 24-hour notice within the same 12-month period. This increased deposit may be paid in one lump sum or in monthly installments, whichever the customer prefers.
2. A customer does not receive the deposit until resident moves from their residence and their account is closed. The Clerk will issue a check for the deposit balance after final bill by check.
3. A monthly base rate of 1.10 per unit of gas used shall be permanently established to cover the cost of operating the gas utility by the City.
4. The charge for posting of a 24-hour notice on a residence or business is \$50.00 per location.
5. All landlords are to notify the City of Morning Sun if they want to have their rental property account(s) in their name or the tenant's name before the tenant moves in. This will be done by filling out the agreement form with the City. The bill for the account will be sent to where the landlord instructs the City to send it. If the landlord requests that the account be set up in the tenant's name, the landlord must fill out the

agreement form. If the landlord determines that the tenant is going to be the responsible party on the account, and if the tenant fails to pay as required and the utilities are shut off, the landlord will not receive notification of such unless requested by the landlord. All tenants will be required to pay a deposit in the amount of two hundred dollars (\$200.00) and fill out an application with the City. All rules as stated in subsection 1 will apply to the tenant.

(Ord. 11-103 – Apr. 13 Supp.)

110.06 VARIABLE GAS PRICE ADJUSTMENT. A variable gas price adjustment will be added to the monthly base rate, based entirely on the unit price for gas charged by Coastal Merchant Gas Company. The unit price charged to the City will be transferred at that same price, through to the customers of the Morning Sun Municipal Gas Company in the next regular billing cycle. With each billing cycle the process will be repeated, mirroring the costs of gas to the City. This rate includes all customers who purchase gas from the Morning Sun Municipal Gas Utility including all residential, commercial and industrial commercial customers. The Clerk is hereby given the responsibility of overseeing the variable gas price adjustment program, and after reviewing the most current billing from the gas supplier is responsible for transferring that data to accurately reflect the criteria for billing the customers, as well as the continuity of the billing process. The implementation of the purchased gas adjustment, whether resulting in an increase or decrease in rates, shall not hereafter require notice to customers of the municipal gas system.

110.07 PAYMENT OF BILLS. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

110.08 ENFORCEMENT FOR NONPAYMENT. The gas supply may be discontinued to any premises or business establishment for which the bill remains unpaid for a period of thirty (30) days after the bill is due. The customer deposit shall be applied to the delinquent account and service shall not be reinstated except upon payment of the balance of the delinquent account, a new deposit of three times the highest gas bill over the past twelve (12) months and a turn-on fee of twenty-five dollars (\$25.00). Future turn-on fees and deposits shall be set by resolution of the Council. Appropriate legal action may be taken to collect any gas account remaining unpaid after service is discontinued. Any unpaid accounts may be certified to the County Treasurer and collected in the same manner as taxes.

110.09 STATE INCOME OFFSET PROGRAM. The City of Morning Sun participates in the Iowa Department of Administrative Services Income Offset Program. If a final bill doesn't get paid, the City may turn the bill over to the State Income Offset Program to be collected from payments due to customers from the State, such as State income tax refunds, lottery winnings, etc.

(Ord. 11-103 – Apr. 13 Supp.)

110.10 GAS OPERATORS QUALIFICATION PROGRAM. The Gas Operators Qualification Program as presented by the Iowa Association of Municipal Utilities is hereby adopted by reference.

(Renumbered by Ord. 11-103 – Apr. 13 Supp.)

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
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111.01 FRANCHISE GRANTED. There is hereby granted unto Interstate Power and Light Company, herein called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places transmission lines through the City, to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years;[†] also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 PLACEMENT OF FACILITIES. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

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

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

[†] **EDITOR’S NOTE:** Ordinance No. 06-100, adopting an electric franchise for the City, was passed and adopted on April 3, 2006.

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

111.05 INSTALLATION OF METERS. The Company, its successors and assigns, shall furnish and install all meters at their own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.06 QUALITY OF SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and its inhabitants and shall be kept in a modern and up-to-date condition.

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

111.08 NO INTERRUPTION OF SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted hereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

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CHAPTER 112

TELEPHONE FRANCHISE

112.01 Grant of Franchise

112.02 Supervisory Authority of the Council

112.03 Obligations for Public Benefit

112.04 Indemnifying Agreement

112.05 Rules and Regulations

112.06 Duty to Provide Service

112.07 Nonexclusive

112.08 Term

112.01 GRANT OF FRANCHISE. The Morning Sun Mutual Telephone Company, a corporation, of Morning Sun, Iowa, hereinafter referred to as the Company, its successors and assigns, is hereby granted the right, power, authority and privilege to build, construct, equip, own, lease, replace, extend, maintain and operate in the City such lines, wires, poles, arms, aerial or subsurface cables, appurtenances and fixtures as shall either alone or in conjunction with other similar equipment comprise a telephone system; to conduct in the City a telephone business and exchange; to use for such purposes the streets, alleys and public grounds of the City, subject to such lawful and proper restrictions as may now or hereafter be imposed by law or by the Council; to buy, purchase, lease, erect, equip, maintain, own or operate such plants, machinery, equipment or buildings as are necessary or pertinent to the maintenance and operation of such telephone lines, telephone system or exchange; to buy, hold, own or lease any and all real estate necessary to conduct such business; to furnish telephone service to the people, firms and corporations of the City; to connect with other telephone lines within the City; to own and conduct a rural telephone exchange and service; to do switching for any person, firm or corporation, whether located within or without the City; and to have such other and further rights as are usually granted to or enjoyed by telephone companies.

112.02 SUPERVISORY AUTHORITY OF THE COUNCIL. Said poles, lines, etc., shall be erected and located under the supervision of the Council and shall be so placed and constructed as not to endanger persons or property or interfere with the use of such streets, alleys and public grounds for other lawful purposes. Whenever such streets and alleys shall be dug up or otherwise injured by the Company, the Company shall, immediately upon the completion of the work then being done at that particular point, restore the same to a condition as good as before said work was begun. When any street or alley whereon such poles, lines, etc., have been placed, is brought to grade or the grade thereof is changed, the Company shall, at its own expense, make such changes in such poles, lines, etc., as may be necessary or as may be directed by the Council. The Council may at any time order such poles, lines, etc., or any of them, removed from any specified street or alley at the expense of the Company, or may order them removed from one place to another place upon such street or alley at the expense of the Company. The Company is hereby authorized to trim, at its own expense, the trees and shrubs growing in or extending over any street, alley or public ground, to prevent the same from interfering with their lines, subject, however, to any legal rights of the owners of property abutting upon such streets, alleys or public grounds. All rights and powers hereby reserved to the Council shall be exercised only in a reasonable and impartial manner.

112.03 OBLIGATIONS FOR PUBLIC BENEFIT. The Company shall without charge therefor permit the City to place upon the poles of said telephone system, and to service, maintain and use, such wires, cables, boxes and appurtenances as may be suitable for use as a

public communication and/or alarm system, for fire alarms, police service, civil defense, or similar use in the public interest. So long at least as operators are kept on duty locally, the Company and its operators shall accept all alarms of fire, shall sound the fire siren or other alarm, and shall call and notify the personnel of the fire department, in such manner as the Council may from time to time direct, without charge for such service. The Company shall without charge therefor provide telephones and service to municipal buildings and/or agencies, not more than three in number, as the Council may direct. The Company shall without charge therefor provide internet services to the City Hall and the Mellinger Library.

112.04 INDEMNIFYING AGREEMENT. The Company shall hold the City free and harmless from all damages, costs and expenses, including reimbursement of reasonable attorney fees suffered by the City due to any such allegations, claims, or defense thereto that may arise by reason of the negligence, carelessness or misconduct of the Company, its agents or employees, or the allegation thereof whether founded or unfounded, in erecting, maintaining or operating said telephone system or because of the placing of the poles, wires or other appurtenances used in connection therewith.

112.05 RULES AND REGULATIONS. The Company may charge a reasonable rental for its services, and may make and require the observance of reasonable rules in connection therewith.

112.06 DUTY TO PROVIDE SERVICE. The Company shall maintain an adequate exchange, with sufficient operators or automatic equipment to provide good and reasonable service within the City. The Company consents that all telephone instruments which may at any time be connected with said telephone system and exchange, shall be available at any time and without charge for the use of any person for the purpose of giving an alarm of fire or other public emergency.

112.07 NONEXCLUSIVE. The franchise granted hereby shall not be exclusive.

112.08 TERM. The term of the franchise granted hereby and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company as herein provided.[†]

(Ch. 112 – Ord. 09-100 – Apr. 13 Supp.)

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[†] **EDITOR'S NOTE:** Ordinance No. 09-100 adopting a telephone franchise for the City was passed and adopted on April 20, 2009.

CHAPTER 113

CABLE TELEVISION FRANCHISE

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113.02 Grant	113.18 Conditions of Sale
113.03 Term	113.19 Transfer of Franchise
113.04 Conditions of Street Occupancy	113.20 Books and Records
113.05 Restoration of Public Ways	113.21 Insurance Requirements
113.06 Relocation at Request of City	113.22 Indemnification
113.07 Relocation at Request of Third Party	113.23 Notice of Violation
113.08 Trimming of Trees and Shrubbery	113.24 Grantee's Right to Cure or Respond
113.09 Safety Requirements	113.25 Public Hearing
113.10 Aerial and Underground Construction	113.26 Enforcement
113.11 Required Extensions of Service	113.27 Technical Violations
113.12 Customer Charges for Extensions of Service	113.28 Actions of Parties
113.13 Service to Public Buildings	113.29 Force Majeure
113.14 Emergency Use	113.30 Equal Protection
113.15 Franchise Fee	113.31 Public, Educational and Government (PEG) Access
113.16 Rates and Charges	

113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Basic cable" is the lowest priced tier of service that includes the retransmission of local broadcast television signals.
2. "Cable Act" means collectively the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996.
3. "Cable services" means (i) the one-way transmission to customers of video programming or other programming service and (ii) customer interaction, if any, which is required for the selection of such video programming or any other programming service.
4. "Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple customers within a community, but such term does not include (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves customers without using any public way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that such facility shall be considered a cable system [other than for purpose of Section 621(c)] to the extent such facility is used in transmission of video programming directly to customers; or (iv) an open video system that complies with Section 653 of Title VI of the Communications Act of 1934; or (v) any facilities of any electric utility used solely for operating its electric utility system.
5. "Customer" means a person who lawfully receives services of the cable system with the Grantee's express permission.

6. "FCC" means Federal Communications Commission or successor governmental entity thereto.
7. "Franchise" means the initial authorization or renewal thereof issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system.
8. "Grantee" means Cablevision VII, Inc., or the lawful successor, transferee or assignee thereof.
9. "Gross revenues" means any revenue received by the Grantee from the operation of the cable system to provide cable services in the service area, provided, however, that such phrase does not include any fees or taxes which are imposed directly or indirectly on any customer thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.
10. "Person" means an individual, partnership, association, joint stock company, trust corporation or governmental entity.
11. "Public way" means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. "Public way" also means any easement now or hereafter held by the City within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purpose of installing and operating the Grantee's cable system over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.
12. "Service area" means the present municipal boundaries of the City and includes any additions thereto by annexation or other legal means.

113.02 GRANT. The City hereby grants to the Grantee a nonexclusive franchise which authorizes the Grantee to construct and operate a cable system in, along, among, upon, across, above, over, under or in any manner connected with public ways within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the cable system. Nothing in this chapter shall be construed to prohibit the Grantee from offering any service over its cable system that is not prohibited by Federal or State law.

113.03 TERM. The franchise granted hereunder shall be for an initial term of twenty (20) years commencing on the effective date of the franchise[†], unless otherwise lawfully terminated in accordance with the terms of this chapter.

113.04 CONDITIONS OF STREET OCCUPANCY. All transmission and distribution structures, poles, other lines and equipment installed or erected by the Grantee pursuant to the terms hereof shall be so located so as to cause a minimum of interference with the proper use of public ways, and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways.

113.05 RESTORATION OF PUBLIC WAYS. If during the course of Grantee's construction, operation or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, the Grantee shall, at its own expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

113.06 RELOCATION AT REQUEST OF CITY. Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way or remove from the public way any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes or any other type of structures or improvements by the City; but the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any person using such street, easement or right-of-way for the purpose of defraying the cost of any of the foregoing, the City shall make application for such funds on behalf of the Grantee.

113.07 RELOCATION AT REQUEST OF THIRD PARTY. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings, provided: (i) the expense of such temporary raising or lowering of the wires is paid by the person requesting the same, including, if required by the Grantee, making such payment in advance; and (ii) the Grantee is given not less than ten (10) business days' advance notice to arrange for such temporary wire changes.

113.08 TRIMMING OF TREES AND SHRUBBERY. The Grantee shall have the authority to trim trees and other natural growth overhanging any of its cable system in the service area so as to prevent the branches of the trees from coming in contact with the Grantee's wires, cables and other equipment. The Grantee shall reasonably compensate the City for any damages caused by such trimming or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the cable system undertaken by the Grantee. Such replacement shall satisfy any and all obligations the Grantee may have to the City pursuant to the terms of this section.

113.09 SAFETY REQUIREMENTS. Construction, installation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall

[†] **EDITOR'S NOTE:** Ordinance No. 131 adopting a cable television franchise for the City was passed and adopted on November 16, 1998. Ordinance No. 05-103, adopted November 7, 2005, extended the initial term to 20 years, with an expiration date of November 16, 2018.

be performed in substantial accordance with applicable FCC or other Federal, State and local regulations and the *National Electric Safety Code*. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

113.10 AERIAL AND UNDERGROUND CONSTRUCTION.

1. Generally. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate and maintain all of its transmission and distribution facilities underground, provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the cable system's signal quality. In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, the Grantee shall have the sole discretion to construct, operate and maintain all of its transmission and distribution facilities or any part thereof aerially or underground. Nothing contained in this section shall require the Grantee to construct, operate and maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this chapter, the Grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

2. New Developments. The City shall provide the Grantee with written notice of the issuance of building or development permits for planned commercial/residential developments within the franchise area requiring undergrounding of cable facilities. The City agrees to require as a condition of issuing the permit that the developer give the Grantee access to open trenches for deployment of cable facilities and written notice of the date of availability of trenches. Such notice must be received by Grantee at least ten (10) business days prior to availability. Developer shall be responsible for the digging and backfilling of all trenches. Grantee shall be responsible for engineering, deployment of labor and cable facilities. Installation from utility easements to individual homes or other structures shall be at the cost of the home or building owner or developer unless otherwise provided.

3. Local Improvement District. If an ordinance is passed creating a local improvement district which involves placing underground certain utilities including that of the Grantee which are then located overhead, the Grantee shall participate in such underground project and shall remove poles, cables and wires from the surface of the streets within such district and shall place them underground in conformity with the requirements of the City. Grantee may include its costs of relocating facilities associated with the undergrounding project in said local improvement district if allowed under applicable law.

113.11 REQUIRED EXTENSIONS OF SERVICE. The cable system, as constructed as of the date of the passage and final adoption of the ordinance codified in this chapter, substantially complies with the material provisions hereof. Whenever the Grantee receives a request for service from at least fifteen (15) residences within 1,320 cable-bearing strand feet of its trunk or distribution cable, it shall extend its cable system to such customers at no cost to said customers for cable system extension, other than the usual connection fees for all customers, provided that such extension is technically feasible, and will not adversely affect the operation, financial condition or market development of the cable system, or as provided for under Section 113.12 of this chapter.

113.12 CUSTOMER CHARGES FOR EXTENSIONS OF SERVICE. No customer shall be refused service arbitrarily. However, for unusual circumstances, such as a customer's request to locate the cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to customers or a density of less than fifteen (15) customers per 1,320 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and customers in the area in which cable service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1,320 cable-bearing strand feet of its trunks or distribution cable and whose denominator equals fifteen (15) residences. Customers who request service hereunder will bear the remainder of the construction and other costs on a *pro rata* basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

113.13 SERVICE TO PUBLIC BUILDINGS. The Grantee shall, upon request, provide without charge one outlet of basic service to the City's office building(s), fire station(s), police station(s) and public school building(s) that are passed by its cable system. The outlets of basic cable service shall not be used to distribute or sell cable services in or throughout such buildings, nor shall such outlets be located in common or public areas open to the public. The City shall take reasonable precautions to prevent any use of Grantee's cable system in any manner that results in the inappropriate use thereof or any loss or damage to the cable system. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to those arising from copyright liability. The Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds one hundred fifty (150) cable feet, unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. If additional outlets of basic cable service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including (but not limited to) labor and materials. (*See also Section 113.31.*)

113.14 EMERGENCY USE.

1. In accordance with and at the time required by the provisions of FCC Regulations Part 11, subpart D, Section 11.51, and as such provisions may from time to time be amended, the Grantee shall install, if it has not already done so, and maintain an Emergency Alert System (EAS) for use in transmitting Emergency Act Notifications (EAN) and Emergency Act Terminations (EAT) in local and State-wide

situations as may be designated to be emergencies by the Local Primary (LP), the State Primary (SP) and/or the State Emergency Operations Center (SEOC), as those authorities are identified and defined within FCC Reg. Section 11.18.

2. The City shall permit only appropriately trained and authorized persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's cable system in any manner that results in inappropriate use thereof, or any loss or damage to the cable system. Except to the extent expressly prohibited by law, the City shall hold the Grantee, its employees, officers and assigns harmless from any claims arising out of the emergency use of its facilities by the City, including, but not limited to, reasonable attorneys' fees and costs.

113.15 FRANCHISE FEE.

1. The Grantee shall pay to the City a franchise fee equal to three percent (3%) of gross revenues (as defined in Section 113.01 of this chapter) received by the Grantee from the operation of the cable system to provide cable services on an annual basis; provided, however, gross revenues do not include: (i) any tax, fee or assessment of any kind imposed by the City or other governmental entity on a cable operator or customer, or both, solely because of his or her status as such; (ii) any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or customers (including any such tax, fee or assessment imposed, both on utilities and cable operators and their services), and (iii) any other special tax, assessment or fee such as a business, occupation and entertainment tax. For the purpose of this section, the 12-month period applicable under the franchise for the computation of the franchise fee shall be the calendar year, unless otherwise agreed to in writing by the City and the Grantee. The franchise fee payment shall be due and payable ninety (90) days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of the Grantee showing the basis for the computation.

2. The period of limitation for recovery of any franchise fee payable hereunder shall be five (5) years from the date on which payment by the Grantee is due. Unless the City initiates a lawsuit for recovery of such franchise fee in a court of competent jurisdiction within five years from and after said payment due date, such recovery shall be barred and the City shall be estopped from asserting any claims whatsoever against the Grantee relating to any such alleged deficiencies.

113.16 RATES AND CHARGES. The City may regulate rates for the provision of basic cable and equipment as expressly permitted by applicable law.

113.17 RENEWAL OF FRANCHISE. The City and the Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Grantee's franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of Federal or State law. In addition to the procedures set forth in said Section 626(a), the City agrees to notify the Grantee of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current franchise term. The City further agrees that such a preliminary assessment shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section

626(b) of the Cable Act and complete renewal of the franchise prior to expiration of its term. Notwithstanding anything to the contrary set forth in this section, the Grantee and the City agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment, the City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current franchise and the City may grant a renewal thereof. The Grantee and the City consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.

113.18 CONDITIONS OF SALE. If a renewal or extension of Grantee's franchise is denied or the franchise is lawfully terminated, and the City either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act. The Grantee and the City agree that in the case of a final determination of a lawful revocation of the franchise, at Grantee's request, which shall be made in its sole discretion, the Grantee shall be given a reasonable opportunity to effectuate a transfer of its cable system to a qualified third party. The City further agrees that during such a period of time it shall authorize the Grantee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the City, the Grantee and City may avail themselves of any rights they may have pursuant to Federal or State law, it being further agreed that the Grantee's continued operation of its cable system during the six-month period shall not be deemed to be a waiver or an extinguishment of any rights of either the City or the Grantee.

113.19 TRANSFER OF FRANCHISE. The Grantee's right, title or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by or under common control with the Grantee, without the prior consent of the City, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Grantee in the franchise or cable system in order to secure indebtedness. Within thirty (30) days after receiving the request for transfer, the City shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee. If the City has not taken action on the Grantee's request for transfer within 120 days after receiving such request, consent by the City shall be deemed given.

113.20 BOOKS AND RECORDS. The Grantee agrees that the City, upon reasonable notice to the Grantee, may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The City agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide customer information in violation of Section 631 of the Cable Act.

113.21 INSURANCE REQUIREMENTS. Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the franchise, Comprehensive General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The Grantee shall provide a Certificate of Insurance designating the City as an additional insured. Such insurance shall be non-cancelable except upon thirty (30) days' prior written notice to the City.

113.22 INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless and defend the City, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of the Grantee's construction, operation or maintenance of its cable system, including, but not limited to, reasonable attorney's fees and costs, provided that the City shall give the Grantee written notice of its obligation to indemnify the City within ten (10) days of receipt of a claim or action pursuant to this section. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

113.23 NOTICE OF VIOLATION. In the event that the City believes that the Grantee has not complied with the terms of the franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

113.24 GRANTEE'S RIGHT TO CURE OR RESPOND. Grantee shall have thirty (30) days from receipt of the notice described in Section 113.23 to: (i) respond to the City contesting the assertion of noncompliance; or (ii) to cure such default; or (iii) in the event that, by the nature of the default, such default cannot be cured within the thirty-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

113.25 PUBLIC HEARING. In the event that the Grantee fails to respond to the notice as described in Section 113.23 pursuant to the procedures set forth in Section 113.24, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to Section 113.24(iii) above, the City shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Council, provided such time is not less than five (5) business days therefrom. The City shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

113.26 ENFORCEMENT. Subject to applicable Federal and State law, in the event the City, after such meeting, determines that the Grantee is in default of any provision of the franchise, the City may:

1. Seek specific performance of any provision which reasonably lends itself to such remedy, as an alternative to damages;
2. Commence an action at law for monetary damages or seek other equitable relief;
3. In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked in accordance with the following: The City shall give written notice to the Grantee of its intent to revoke the franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances

of substantial noncompliance with a material provision of the franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days after such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response satisfactory from the Grantee, it may then seek termination of the franchise at a public meeting. The City shall cause to be served upon the Grantee, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination. At the designated meeting, the City shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the City *de novo* and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days after the issuance of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

113.27 TECHNICAL VIOLATIONS. The parties agree that it is not the City's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the franchise for so-called "technical" breaches or violations of the franchise or this chapter, which shall include, but are not limited to the following:

1. In instances or for matters where a violation or a breach by the Grantee of the franchise or this chapter was good faith error that resulted in no or minimal negative impact on the customers within the service area; or
2. Where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by Grantee of the franchise or this chapter, or which were deemed to have prevented the Grantee from complying with a term or condition of the franchise or this chapter.

113.28 ACTIONS OF PARTIES. In any action by the City or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

113.29 FORCE MAJEURE. The Grantee shall not be held in default under or in noncompliance with the provisions of the franchise or suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the franchise) where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate and control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which Grantee's cable and/or equipment is attached, as well as unavailability of materials and/or qualified labor to perform the necessary work.

113.30 EQUAL PROTECTION. In the event the City enters into a franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of

constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

113.31 PUBLIC, EDUCATIONAL AND GOVERNMENT (PEG) ACCESS. The Grantee shall configure the system to allow for the origination of a PEG access channel from the Public Library located at 30 Division Street in the City. The Grantee shall provide a computer with a video card capable of providing a scrolling presentation as a character generator for information distribution to subscribers in the service area. The channel shall be operational no later than January 31, 2006. The PEG access channel is made available to the City by Grantee for the purpose of cablecasting non-commercial programming by the City's residents, City administration and educational institutions. The City agrees not to use the access channel to provide commercial or revenue-generating services or services that may compete, directly or indirectly, with services provided by the Grantee; provided, however, the City may cablecast acknowledgments of funding sources and the underwriting of programming costs. Such acknowledgements will be deemed non-commercial if they are within the standards for underwriting applicable to the Public Broadcasting Service (PBS) or the standards necessary to maintain tax exempt status within the applicable regulations of the Internal Revenue Service. Programming shall not lose its non-commercial character by reason of including public or charitable fund-raising events or activities or donor and underwriting announcements reflecting funding provided by for-profit or non-profit entities for PEG programming in accordance with the provisions of 47 CFR 73.621 of the FCC's rules.

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CHAPTER 120

BEER, LIQUOR AND WINE CONTROL

120.01 General Prohibition

120.02 Persons Under Legal Age

120.03 Public Consumption or Intoxication

120.04 Open Containers in Motor Vehicles

120.05 License or Permit Required

120.01 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 terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.

(Code of Iowa, Sec. 123.2)

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

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

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

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

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

120.03 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

C. “Peace Officer” means the same as defined in section 801.4 of the Code of Iowa.

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

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

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

(Code of Iowa, Sec. 123.46)

120.04 OPEN CONTAINERS IN MOTOR VEHICLES. *(See Section 62.09 of this Code of Ordinances.)*

120.05 LICENSE OR PERMIT REQUIRED. It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport 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. 123.2 and 123.171)

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(*Code of Iowa, Sec. 453A.1*)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under

this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of two dollars (\$2.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of twenty-five dollars (\$25.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day..... \$ 15.00
 - B. For one week..... \$ 30.00
 - C. For up to six (6) months \$ 60.00
 - D. For one year or major part thereof \$ 75.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the

ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Morning Sun Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of

Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building, mobile home or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

123.06 PERMIT FEE. A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

135.14 Driveway Construction

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage – \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit

holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Fee. A permit fee of ten dollars (\$10.00) 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. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in the amount of one thousand dollars (\$1,000.00) to guarantee such compliance.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be

removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. The minimum diameter of such culvert shall be twelve (12) inches. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.14 DRIVEWAY CONSTRUCTION.

1. Permit Required. No person shall remove, reconstruct, install or resurface a driveway unless such person has obtained a building permit from the City that has been reviewed by the Zoning Administrator to insure all criteria for construction are met. Furthermore, any resident contracting for driveway resurfacing shall notify the resurfacing company that a Peddler's license is required for any contractor working door to door within the community in such a capacity.
2. Driveway Entrance Requirements. No person shall install or cause to be installed any portion of driveway outside the lot and property lines and inside the curb lines or traveled portion of the public street unless the grade of the driveway is at street level or below for the first 12 inches adjacent to the traveled portion of the public street. At no time is the initial entrance area installation to be above street level, as any driveway entrance above street level may incur damage from snow removal.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice and Accumulations	136.13 Encroaching Steps
136.04 Responsibility for Maintenance and Replacement	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE AND REPLACEMENT. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street. If at any time the abutting property owner wishes to remove said sidewalk, it must be replaced in a timely manner in conformance with the standards set forth in this chapter, unless agreed upon otherwise by a majority vote of the Council.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
 - B. Business district sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

- C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
 7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
 8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.
 9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.
 10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
 11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach

thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

[illegible]

STREET GRADES

138.02 Record Maintained

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

[illegible]

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Morning Sun, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner
145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish
145.08 Costs

145.09 Occupancy Permits
145.10 Complaint Generated Notice to Vacate
145.11 Municipal Infraction Notice to Vacate
145.12 Professional Inspection
145.13 Costs
145.14 Granting or Denying Permit
145.15 Reapplication for Occupancy Permit

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to

constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF MORNING SUN, IOWA." Such notice shall remain posted until the required repairs, demolition or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.[†]

[†] **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.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS. Any and all costs or expenses incurred by the City in relation to analysis of property safety issues, engineering reports or costs, City employee labor or placement of, movement or removal of barricades as well as any other labor or costs associated with the property owners' property in relation to analysis of the condition of the property as well as all other costs for removal, repair or dismantling of such building or structure as incurred by the City pursuant to this chapter shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

145.09 OCCUPANCY PERMITS. Once any residential or commercial property has been determined by the Council to constitute a "Dangerous Building" and has been issued an abatement notice for repair or demolition, the property shall not be occupied again or served by any public utilities until an application has been made to the Council for the purpose of obtaining an Occupancy Permit and that Occupancy Permit granted by the Zoning Administrator. Upon submission of an Occupancy Permit Application, the Council shall obtain such information and order the Zoning Administrator to make such inspection both inside and outside of the property as may be necessary to determine that all the terms of Sections 145.09 through 145.15 and other laws, rules, regulations and requirements of the State and City have been complied with.

145.10 COMPLAINT GENERATED NOTICE TO VACATE. Subsequently, any time a complaint of substantial proportions is received in writing by the Council to the degree that the Council determines there may be an immediate risk to the health and safety of any occupants, the occupants of such property shall be notified to vacate the property immediately until which time as an inspection can be made and an Occupancy Permit granted to reoccupy the premises.

145.11 MUNICIPAL INFRACTION NOTICE TO VACATE. A failure to vacate the premises immediately as defined in this chapter or a failure to perform an action required herein, following notice as provided in this chapter, may be enforced under the procedures applicable to municipal infractions.

145.12 PROFESSIONAL INSPECTION. Should the seriousness of the violations be of such degree that a thorough inspection may be needed outside the level of expertise of the Zoning Administrator, he/she may cause the abated property to be examined by any number of qualified professionals, including but not limited to a structural engineer, qualified housing inspector, an electrician, a plumbing and heating professional, etc. The full cost of the inspection by any of these professionals shall be borne solely by the Occupancy Permit applicant and shall be paid prior to any utilities being initiated or any persons occupying the property.

145.13 COSTS. The cost of application for the Occupancy Permit shall be set at twenty-five dollars (\$25.00). That cost shall be for application only and shall not in any way imply acceptance of the permit by the Zoning Administrator. The City shall immediately, upon receipt of a statement, pay any costs involved in the inspection process. The property owner shall then be given a reasonable fixed time to reimburse the City for payment of those charges as incurred under Section 145.09. If after that reasonable time the charges have not been paid, the City shall give the property owner a thirty (30) day notice to pay in full. If payment is not received, the City shall then levy those charges as a special assessment against the land on which the building or structure is located, and shall certify same to the County Treasurer for collection in the manner provided for other taxes.

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

145.14 GRANTING OR DENYING PERMIT. After an Occupancy Permit has been granted by the Zoning Administrator, there shall be notice in writing to the party making application that the Occupancy Permit has been granted, and they may proceed to occupy the premises. At that time the Zoning Administrator shall notify the Clerk to order the utilities to be turned on after proper deposits, if any are necessary, have been paid. Should the Occupancy Permit be denied, the Zoning Administrator shall cause notice to be sent by certified mail notifying the party that the permit was denied with the reason for the denial.

145.15 REAPPLICATION FOR OCCUPANCY PERMIT. If after inspection the Occupancy Permit is denied and notice is sent of the denial, the parties involved may resubmit a new application for an Occupancy Permit by paying a new fee. The Zoning Administrator may at that time use his/her discretion in ordering the inspections he/she feels are necessary to insure the health and safety of anyone occupying those same premises. The same procedures as outlined above will again apply until which time as an Occupancy Permit is granted.

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CHAPTER 150

BUILDING PERMITS

150.01 Purpose
150.02 Definitions
150.03 Building Administrator
150.04 Powers and Duties

150.05 Appeal
150.06 Permit Fee
150.07 Penalty

150.01 PURPOSE. The purpose of this chapter is to provide guidance and restrictions on construction, reconstruction and enlargement of structures, to regulate the use thereof and to promote the health, safety and general welfare of the City.

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

1. “Accessory use or structure” means a use or a structure subordinate to the principal use or building on the same lot and serving purpose customarily incidental thereto.
2. “Administrator” means the Building Administrator appointed by the Mayor and confirmed by the Council.
3. “Building” means any structure for the shelter or enclosure of persons, animals, or chattel.
4. “Dwelling” means a building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent, cabin, mobile home or trailer coach, or a room in a hotel or motel.
5. “Essential services” means the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety or general welfare, but not including buildings.
6. “Mobile home” is considered a structure.
7. “Structural alteration” means any change in the supporting members of a building including but not limited to bearing walls, load bearing partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.
8. “Structure” means anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground.

150.03 BUILDING ADMINISTRATOR. There is hereby created the office of Building Administrator, to be appointed by the Mayor to serve for a term and at a compensation to be fixed by the Council.

150.04 POWER AND DUTIES. The Building Administrator shall have the following duties and authority:

1. Issue permits for the construction, reconstruction, alteration, extension, change in use, or removal of any structure, dwelling, building or mobile home.
2. Furnish and receive applications for permits which shall state the extent and purpose of the proposed structure or change in the use of the structure.
3. Determine if the construction or change in any structure conforms with the standards of the City and State Building Codes and the Board of Health and is in the best interest of the health, safety, and general welfare of the City.
4. Determine, as a measure of the health, safety, and general welfare, that there are essential services present or to be installed during construction or change in structures and also to ensure that open spaces and noise abatement are preserved.
5. Control principal uses in all areas and accessory uses of structures in residential areas in accordance with the comprehensive plan and/or zoning ordinance.

150.05 APPEAL. An appeal may be taken on the ruling of the Administrator to the Council by any property owner or person affected by the ruling. Such appeal shall be filed with the Clerk along with a fee of twenty-five dollars (\$25.00) per \$1,000.00 or fraction thereof of the anticipated cost of the construction or alteration (minimum of \$25.00; maximum of \$50.00) together with all plans and specifications contained in the original application. Hearing on the appeal shall be fixed within a reasonable time. The Council shall give at least fifteen (15) days' notice of the time and place of such hearing by insertion in a newspaper published in the community, and shall also give notice, delivered by first class mail at least five days before the time fixed for such hearing, to the applicant or appellant and to the administrator, and to the respective owners of record of property adjoining or adjacent to the premises in question. Any party may appear at such hearing in person or by agent or by attorney. The Council shall decide the application or appeal within a reasonable time.

150.06 PERMIT FEE. There shall be collected by the Administrator, with each application for permit, the following fees, except that no fee shall be charged the U.S. Government, the State or any political subdivision thereof. All fees shall be accounted for and deposited with the City Treasurer for the General Fund of the City.

New Single Family or Multi-Family Homes	\$100.00
New Commercial Construction	\$150.00
Commercial Additions	\$ 50.00
Garages, Home Additions, Carports	\$ 50.00
Fences, Utility Sheds, Porches, Decks, etc.	\$ 50.00
Driveways and Sidewalks	\$ 50.00

150.07 PENALTY. No person shall construct, reconstruct, alter, extend, change the use of or remove a structure in the City without a building permit. Any person violating this section shall be in violation of this Code of Ordinances. Each day a violation continues shall constitute a separate offense.

CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within

fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 165

ZONING REGULATIONS

[illegible]

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CHAPTER 166
SUBDIVISION REGULATIONS

EDITOR'S NOTE
The Subdivision Regulations adopted in December of 1996 and amendments thereto are contained in the Appendix to this Code of Ordinances and are in full force and effect.

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CODE OF ORDINANCES

CITY OF MORNING SUN, IOWA

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