

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 Ossian, 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 Ossian, Iowa.
3. "Clerk" means the city clerk of Ossian, 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 Ossian, Iowa.
6. "Council" means the city council of Ossian, Iowa.
7. "County" means Winneshiek 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 "Ordinances" means the ordinances of the City of Ossian, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

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

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

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

CHAPTER 2

CHARTER

- 2.01 Title
- 2.02 Form of Government
- 2.03 Powers and Duties

- 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 Ossian, 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 Alternative Penalties

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

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

3.02 ENVIRONMENTAL VIOLATION. A municipal infraction 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.

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

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

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

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

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

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.
4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.
7. The penalty for failure to appear in court.
8. The legal description of the affected real property, if applicable.

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings

5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts

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

1. **Qualify for Office.** Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after 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 Ossian as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to 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[3a])

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2,500.00) in a fiscal year.

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

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[3l])

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[3m])

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 in accordance with Section 372.13[2] of the *Code of Iowa*.

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

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

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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 not to exceed one hundred twenty dollars (\$120.00) for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13,

17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

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

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

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

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

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

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

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

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

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

D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds

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

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

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

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

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

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

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

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

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

(Section 7.05 – Ord. 79 – Jan. 20 Supp.)

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

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

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

1. “Actual value added” means the actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the local assessor as of January 1 of each year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.
4. “New machinery and equipment assessed as real estate” means new machinery and equipment assessed as real estate pursuant to Section 427A.1, Subsection 1, Paragraph “e”, *Code of Iowa*, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.
5. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

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

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses, distribution centers, and the acquisition of or improvement to machinery and equipment assessed as real estate, is eligible to receive a partial exemption from taxation for a period of five (5) years.

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

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

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

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

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

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

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

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

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

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

from taxation until the new construction has been completed and found to be qualified real estate.

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

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

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

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

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

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CHAPTER 9
URBAN REVITALIZATION

EDITOR'S NOTE

Ordinance No. 67, adopted December 7, 2015, designated the Ossian Urban Revitalization Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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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 (with Council approval)

15.04 COMPENSATION. The salary of the Mayor is \$1,500.00 per year plus \$35.00 for each meeting of the Council attended. Effective January 1, 2016, the salary of the Mayor shall be \$1,800.00 per year plus \$45.00 for each meeting of the Council attended.
(Code of Iowa, Sec. 372.13[8])

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of 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 that 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. 380.1[a])

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

1. Regular Meetings. The regular meetings of the Council are held on the first Monday at the Community Center building at a time established by resolution. If such day falls on a legal holiday, or a conflict prevents the attendance of some of the Council, Mayor or City Clerk, the meeting is held at a mutually agreeable day and time, as determined by 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

17.06 COMPENSATION. The salary of each Council member is \$35.00 for each meeting of the Council attended. Effective January 1, 2016, the salary of each Council member shall be \$45.00 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 Other Publications
18.06 Authentication
18.07 Certification

18.08 Records
18.09 Attendance at Meetings
18.10 Licenses and Permits
18.11 Notification of Appointments
18.12 Elections
18.13 City Seal

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

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

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

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

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) or more than twenty (20) days before the date of the election, hearing, or other action, unless otherwise provided by law.

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

3. Maintenance. Maintain all City records and documents, or accurate reproductions, for at least five (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. The Clerk shall attend all regular and special Council meetings and, at the direction of the Council, the Clerk shall attend meetings of committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.
2. Record of Fund. Keep the record of each fund separate.
3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.
4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.
9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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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.

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

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

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

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

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

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

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

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

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

(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 Ossian Public Library. It is referred to in this chapter as the Library.

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five (5) members, one of which resides outside the City limits. All members are to be appointed by the Mayor with the approval of the Council.

21.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City or County, in the case of the nonresident member. 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 Trustee shall be vacated if such member moves permanently from the City or County, in the case of the nonresident member, and 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, in the case of the nonresident member. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management

of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

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

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

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

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

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

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

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

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

21.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in a Library Fund under the City's General Account. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 22

SOUTH WINNESHIEK RECREATION COMMISSION

22.01 Established

22.02 Appointment and Term of Office

22.03 Qualifications of Members - Compensation

22.04 Powers

22.01 ESTABLISHED. There is established a Commission to be known as the South Winneshiek Recreation Commission which shall have the jurisdiction, powers, duties and obligations created set forth and defined in the Statutes of Iowa as now existing or as hereafter amended.

22.02 APPOINTMENT AND TERM OF OFFICE. The Commission shall be composed of two members who shall be appointed by the Mayor with approval of the City Council. Each member of the Commission shall hold office for a term of five years. Vacancies shall be filled in the same manner as original appointments are made.

22.03 QUALIFICATIONS OF MEMBERS – COMPENSATION. Appointments to the Commission shall be residents of the City of legal age who have an active interest in the promotion of recreational activities. Members shall serve without compensation, but they shall be reimbursed for actual expenses incurred in the performance of their duties.

22.04 POWERS. The Commission shall have and exercise all the powers provided to it by the City of Ossian. The Commission shall use budgeted and donated funds to fund the administration of the CHAPTER 28E, City of Calmar, City of Ossian, City of Spillville and Northeast Iowa Community College Joint Administration Agreement.

(Ch. 22 – Ord. 69 – Apr. 17 Supp.)

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CHAPTER 30

LAW ENFORCEMENT

30.01 28E AGREEMENT. Pursuant to Chapter 28E of the *Code of Iowa*, the City has entered into an agreement for law enforcement services with the City of Calmar, Iowa.

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CHAPTER 35
FIRE PROTECTION

35.01 FIRE PROTECTION. Fire protection services for the City are provided by the Tri-Township Fire Department.

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 40
PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Funeral or Memorial Service. Within 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 that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

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

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

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

(Code of Iowa, Sec. 723.5)

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

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

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

41.14 FIREWORKS. The sale, use and exploding of fireworks within the City are subject to the following:

(Code of Iowa, Sec. 727.2)

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.

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

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.

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

- F. “Trespass” means one or more of the following acts:

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

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

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

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

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

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

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

3. Specific Exceptions. "Trespass" does not mean either of the following:

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
 - A. Section 21.10 – Injury to Books or Property
 - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
 - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

1. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic 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])

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(49) and (50) of this Code of Ordinances.]*

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

(Code of Iowa, Sec. 123.47[1A])

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CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:
 - A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury, or loss of life.
 - B. “Knowingly” means knowledge that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - C. “Minor” means any unemancipated person under the age of eighteen (18) years.
 - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

- F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 5:00 a.m. of the following day.
3. Exceptions. The following are exceptions to the curfew:
- A. The minor is accompanied by a responsible adult.
 - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor’s place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;
 - (2) Minor’s place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
 - D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor’s presence falls within one of the above exceptions.
5. Enforcement Procedures.
- A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver’s license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.
 - B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating

the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any nonsecured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

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

6. Penalties.

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

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

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

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

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

under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

46.03 CONTRIBUTING TO DELINQUENCY. It is unlawful for any person to encourage any child under 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 Other Conditions
50.04 Nuisances Prohibited

50.05 Nuisance Abatement
50.06 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.

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

11. Airport Air Space. Any object or structure hereafter erected within 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 OTHER CONDITIONS. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions that are deemed to be nuisances:

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

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

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

† **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.

- B. Location of Nuisance. The location of the nuisance.
- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.
(Code of Iowa, Sec. 364.12[3h])
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.
(Code of Iowa, Sec. 364.13)
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.

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

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

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

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

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

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

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

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

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within a garage or other enclosed structure.

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

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

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CHAPTER 52

WEEDS AND GRASS

52.01 Purpose

52.02 Definitions

52.03 Cutting Specifications and Standards of Practice

52.04 Uniform Height Specifications

52.05 Noxious Weeds

52.06 Violation

52.07 Notice

52.08 Penalty

52.09 Additional Violation

52.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. "Curb," "curb line" or "curbing" means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
2. "Cut," or "mow" means to mechanically maintain the growth of grass, weeds or brush at a uniform height.
3. "Owner" means a person owning private property in the City and any person occupying private property in the City.
4. "Parking" means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

52.03 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height as defined in Section 52.04.
2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner's property.

52.04 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas – not to exceed six inches (6").
2. Undeveloped Residential Areas – not to exceed eight inches (8").
3. Business and Industrial Areas – not to exceed eight inches (8").
4. Agriculture Areas – not to exceed fifteen inches (15").

Grass, weeds and brush that are allowed to grow in excess of the above specified limitations are deemed to be violations of this chapter.

52.05 NOXIOUS WEEDS.

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.
2. Noxious weeds include any weed growth or plant designated as noxious by the State Department of Natural Resources rules and regulations or by the *Code of Iowa*.

52.06 VIOLATION. Upon the determination by the designated municipal officer by visual observation and measurement that a violation of this chapter has occurred, the City will send written notice by ordinary mail to the landowner informing said owner of the problem and the action that is to be taken.

52.07 NOTICE. The notice will set forth that the property owner has seven (7) days from the date of the notice to have the grass cut so that the height conforms with this chapter. The notice will set forth the address of the property in question and will instruct the landowner that this notice constitutes notice for the balance of the summer and that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given.

52.08 PENALTY. Any property, including the parking, which is not mowed within the time period in the notice may be mowed by the City, and a charge of \$75.00 per hour for such mowing, plus a surcharge of \$100.00, will be charged to the property owner. Any property owners who fail to mow their properties, including ditches, thus allowing the same to be mowed by the City, and who do not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

52.09 ADDITIONAL VIOLATION. Any landowner who violates this chapter will be given one notice per summer and the City will be authorized to respond to additional violations without additional written notice being given.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large: Impoundment
55.05 Livestock	55.14 Disposition of Animals
55.06 At Large Prohibited	55.15 Impounding Costs
55.07 Damage or Interference	55.16 Pet Awards Prohibited
55.08 Annoyance or Disturbance	55.17 Animal Waste
55.09 Vicious Animals	

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.

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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

55.09 VICIOUS ANIMALS. It shall be unlawful for any person to harbor or keep a vicious animal within the City. An animal is deemed to be vicious when it shall have attacked, bitten, molested or caused injury to a human or other animal, or when propensity to attack or bite humans or animals has been shown to exist through no more than two repeated attacks or attempted attacks and where such propensity is known to the owner or ought reasonably be known to the owner thereof. This section shall not apply to guard and/or attack dogs, providing that adequate safeguards are established to protect humans legally on the premises and the dog is registered as a guard/attack dog with the City.

1. Public Hearing on Disposition.

A. If an animal is accused of being vicious, whether at large or restrained on private property, the City Council or designee may set a public hearing on the disposition of such animal. Pending such public hearing, the animal shall

be impounded in a shelter approved by the City or in lieu of impound, the City Council or designee may permit the animal to be confined, at the owner's or custodian's expense, in a City-approved dog kennel or veterinary facility within the County or at the owner's or custodian's residence, provided the owner or custodian shall:

- (1) Not remove the animal from the kennel, veterinary facility or residence without the prior written approval of the City Council or authorized representative; and shall
 - (2) Make the animal available for observation and inspection by animal control personnel or members of law enforcement or their authorized representatives.
- B. The City Council or designee may have animal the impounded or confined and permanently identified by means of a photo identification prior to release from impound or confinement.
- C. Should the animal be held at a veterinary hospital, release of said animal without written authorization of the City Council or designee is prohibited.
- D. The hearing shall be public and set after at least ten (10) calendar days written notice of said hearing, giving the opportunity for both sides to appear.
2. Terms, Conditions and Restrictions. If, at the hearing, the City Council or designee determines the allegations are true, the City Council or designee may require reasonable terms and conditions or restrictions for the training, handling or maintenance of the animal to abate the condition which gave rise to the hearing. A license or permit may be revoked if the owner refuses to accept, in writing, any term, condition or restriction, or fails to attend the hearing. Terms, conditions or restrictions may include, but are not limited to:
- A. Selection of locations within the owner's property or premises where the animal shall not be kept.
 - B. Requirements as to size, construction or design or an enclosure where the animal may be kept.
 - C. Specialized training from a trainer or training program approved by the City to correct any of the animal's behavioral problems.
3. Grounds for Destruction. If the City Council or designee determines: 1) that the animal is a vicious animal; 2) that the owner has failed to restrain such animal reasonably; and 3) that it is in the public interest to destroy such animal, the animal shall be destroyed in a manner deemed appropriate by the City after five (5) days unless the determination is appealed to a court of competent jurisdiction.

(Section 55.09 – Ord. 77 – Jan. 20 Supp.)

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 State or federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

55.11 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. Animals found at large in violation of this chapter shall be seized and impounded at either the City or County impoundment facility, 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 those charged by the City or County impounding facility.

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:

A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.17 ANIMAL WASTE. Any person who shall walk an animal on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste except when the animal is on the owner's or keeper's property and except for animals properly trained and certified to assist persons with disabilities while such animals are acting in such capacity.

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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 "Ossian 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 all of Highway 52 from West Street east to Boody Street.
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. Any peace officer is authorized to stop any vehicle to require exhibition of the driver's motor vehicle license, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Council. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

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

4. Control By Police and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.

23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.

55. Section 321.299 – Overtaking a vehicle.
56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
62. Section 321.309 – Towing; convoys; drawbars.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers approaching blind persons.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.
88. Section 321.344B – Immediate safety threat; penalty.

89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver’s view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.
122. Section 321.408 – Back-up lamps.

123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.449A – Rail crew transport drivers.
149. Section 321.450 – Hazardous materials transportation.
150. Section 321.454 – Width of vehicles.
151. Section 321.455 – Projecting loads on passenger vehicles.
152. Section 321.456 – Height of vehicles; permits.
153. Section 321.457 – Maximum length.
154. Section 321.458 – Loading beyond front.
155. Section 321.460 – Spilling loads on highways.
156. Section 321.461 – Trailers and towed vehicles.
157. Section 321.462 – Drawbars and safety chains.

- 158. Section 321.463 – Maximum gross weight.
- 159. Section 321.465 – Weighing vehicles and removal of excess.
- 160. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 COMPRESSION BRAKES. It is unlawful for any person in any part of the City to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any semi-tractor, commonly referred to as jakebraking. The City shall cause notices to be posted or signs erected indicating such prohibition.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On U.S. Highway 52 from 25 feet west of West Street to 250 feet west of Boody Street.
2. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On U.S. Highway 52 from 300 feet west of Center Street to 25 feet west of West Street.

- B. On U.S. Highway 52 from 250 feet west of Boody Street to 50 feet east of Hall Street.
- 3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Dessel Street from 647 feet east of Becker Avenue to Boody Street.
- 4. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On U.S. Highway 52 from 1,000 feet north of County Road B32 to 300 feet west of Center Street.
- 5. 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. On U.S. Highway 52 from 50 feet east of Hall Street to Station 364.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

(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, at the following designated intersections and at intersections where there are automatic traffic signals.

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

1. At the intersection of Main Street and West Street.
2. At the intersection of North Lydia Street and Main Street.

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets

65.02 Stop Required

65.03 Four-Way Stop Intersections

65.04 Yield Required

65.05 School Stops

65.06 Special Stop Required at Railroad Crossings

65.07 Stop Before Crossing Sidewalk

65.08 Stop When Traffic Is Obstructed

65.09 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Mechanic Street from Becker Avenue to Boody Street.
2. Brooks Street from Ogden Street to Jessie Street.

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

(Code of Iowa, Sec. 321.345)

1. Boody Street. Vehicles traveling south on North Boody Street shall stop at Main Street.
2. Mary Street. Vehicles traveling south on North Mary Street shall stop at Main Street.
3. Lydia Street. Vehicles traveling south on North Lydia Street shall stop at Main Street.
4. West Street. Vehicles traveling south on North West Street shall stop at Main Street.
5. Fisher Avenue. Vehicles traveling west on Fisher Avenue shall stop at Main Street.
6. Broadway Street. Vehicles traveling east on Broadway Street shall stop at Becker Avenue.
7. Mechanic Street. Vehicles traveling on Mechanic Street shall stop at Becker Avenue.
8. Boody Street. Vehicles traveling north on Boody Street shall stop at Dessel Street.
9. Dessel Street. Vehicles traveling west on Dessel Street shall stop at Becker Avenue.
10. Hall Street. Vehicles traveling north on South Hall Street shall stop at Main Street.
11. Ogden Street. Vehicles traveling north on South Ogden Street shall stop at Main Street.

12. Boody Street. Vehicles traveling north on South Boody Street shall stop at Main Street.
13. Mary Street. Vehicles traveling north on South Mary Street shall stop at Main Street.
14. Lydia Street. Vehicles traveling north on South Lydia Street shall stop at Main Street.
15. West Street. Vehicles traveling north on South West Street shall stop at Main Street.
16. Jessie Street. Vehicles traveling north on Jessie Street shall stop at Main Street.
17. Jessie Street. Vehicles traveling south on Jessie Street shall stop at Brooks Street.
18. Mary Street. Vehicles traveling south on South Mary Street shall stop at Brooks Street.
19. Klisart Street. Vehicles traveling north on Klisart Street shall stop at Brooks Street.
20. Center Street. Vehicles traveling south on Center Street shall stop at U.S. Highway 52.
21. Jessie Street. Vehicles traveling north on Jessie Street shall stop at Brooks Street.
22. Boody Street. Vehicles traveling south on Boody Street shall stop at Brooks Street.
23. Brooks Street. Vehicles traveling east on Brooks Street shall stop at Ogden Street.
24. Kuhn Drive. Vehicles traveling east on Kuhn Drive shall stop at Jessie Street.
25. Lydia Street. Vehicles traveling south on Lydia Street shall stop at Brooks Street.

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)

– NONE –

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

(Code of Iowa, Sec. 321.345)

1. West Street. Vehicles traveling south on West Street shall yield at Brooks Street.
2. Fisher Avenue. Vehicles traveling east on Fisher Avenue shall yield at West Street.

3. Mechanic Street. Vehicles traveling west on Mechanic Street shall yield at West Street.
4. Mechanic Street. Vehicles traveling east on Mechanic Street shall yield at Boody Street.
5. Bothel Avenue. Vehicles traveling west on Bothel Avenue shall yield at Boody Street.
6. First Street. Vehicles traveling south on First Street shall yield at Broadway Street.
7. Second Street. Vehicles traveling south on Second Street shall yield at Broadway Street.
8. Third Street. Vehicles traveling south on Third Street shall yield at Broadway Street.
9. Klein Street. Vehicles traveling south on Klein Street shall yield at Broadway Street.
10. North Mary Street. Vehicles traveling north on Mary Street shall yield at Mechanic Street.
11. Hill Street. Vehicles traveling north on Hill Street shall yield at Kuhn Drive.
12. Hill Street. Vehicles traveling south on Hill Street shall yield at Kuhn Drive.

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

(Code of Iowa, Sec. 321.249)

1. Main Street between Hall Street and Ogden Street (in front of school).
2. Main Street at the intersection of Mary Street.
3. Brooks Street between South Boody Street and South Mary Street (in the front proximity of the school).

65.06 SPECIAL STOP REQUIRED AT RAILROAD CROSSINGS. Every driver of a vehicle shall stop in accordance with the following:

1. Boody Street. Vehicles traveling on Boody Street at the railroad tracks on Boody Street.
2. Mary Street. Vehicles traveling on Mary Street at the railroad tracks on Mary Street.
3. West Street. Vehicles traveling on West Street at the railroad tracks on West Street.
4. Hall Street. Vehicles traveling on Hall Street at the railroad tracks on Hall Street.

65.07 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)

65.08 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.

65.09 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

66.01 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 City ordinance over those streets named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

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

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CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use of Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68
ONE-WAY TRAFFIC

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

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

- NONE -

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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 Manner of Angle Parking
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons with Disabilities Parking
69.08 No Parking Zones

69.09 All Night Parking Prohibited
69.10 Truck Parking Limited
69.11 City Parking Area
69.12 Snow Emergency
69.13 Controlled Access Facilities
69.14 Parking Prohibited from November 1 to April 1
69.15 Parking Prohibited from November 1 to April 1
Between the Hours of 2:00 a.m. and 6:00 a.m.

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. Main Street, on both sides, from Mary Street to West Street.

69.04 MANNER OF ANGLE PARKING. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when 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 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 theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. 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 that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

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

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

1. Fisher Avenue from the west City limits to Main Street.
2. Main Street from Fisher Avenue to West Street.
3. Main Street from Boody Street to Ogden Street.
4. Main Street from Ogden Street to a point 340 feet east of Ogden Street.
5. Boody Street on the west side from Bothel Avenue north to Dessel Street.
6. Mechanic Street on the south side from Becker Avenue to Boody Street.
7. Becker Avenue.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than thirty (30) minutes between the hours of 2:00 a.m. and 6:00 a.m. of any day.

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

1. South Lydia Street on the west side from Main Street south to the alley.

69.10 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

A. Main Street on both sides from Lydia Street to 50 feet east and west;

B. North Lydia Street on both sides from Main Street to 50 feet north.

2. Livestock. No such vehicle containing livestock or any vehicle that is a livestock hauler, empty or full, shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

69.11 CITY PARKING AREA. No vehicle shall be parked for a period of time greater than twenty-four (24) hours on the City parking area adjacent to Mechanic Street and between Becker Avenue and West Street and shall only be between the designated signs in said area. Furthermore, vehicles shall be parked in the above described area only if all engines are turned off for the entire period the vehicles are so parked and in addition, all livestock trucks and/or trailers, whether empty or loaded, are prohibited from parking at any time.

69.12 SNOW EMERGENCY. Whenever the City experiences a snow fall which accumulates to a depth of one inch or more, a snow emergency shall automatically be in effect and all of the following procedures prescribed by this chapter shall be observed by all persons:

1. Notice to the Public. The City Personnel shall utilize all available communications media in the community to give notice to the public that a snow emergency is in effect, but failure of a person to receive such notice shall not constitute a defense to any prosecution for violation of the rules, regulations and procedures prescribed by this chapter where snow accumulation of one inch or more has occurred.
2. Alternate Parking of Motor Vehicles. While a snow emergency is in effect, curbside parking of motor vehicles shall be permitted only as follows:
 - A. On odd-numbered calendar days of the week, cars are to be parked on the east side of streets that run north/south and on the north side of streets that run east/west, until such time as the snow has been removed or plowed from the opposite side of the street. On even-numbered calendar days of the week, cars are to be parked on the west side of streets that run north/south and on the south side of streets that run east/west, until such time as the snow has been removed or plowed from the opposite side of the street. There is to be no parking on Main Street and from Main Street north on Lydia Street between the hours of 2:00 a.m. and 6:00 a.m. There is to be no parking on the south side of Mechanic Street during a snow emergency.
 - B. Such plan of alternate parking shall supersede all posted parking restriction signs until the completion of snow removal from both sides of any given street within the City limits, after which regularly established parking regulations shall resume and shall be observed by all persons.
 - C. Parking is prohibited during snow removal on both sides of Boody Street from Bothel Avenue to the north City limits.
3. Removing Violators From the Street. In case any motor vehicle is found parked on any street or alley in the City in violation of established or snow emergency restrictions, the Police Department or the Streets Department or anyone under their direction is authorized to move such vehicle and to tow such vehicle to a designated impounding area at the owner's expense. When such vehicle is reclaimed by its owner, there shall be assessed, in addition to any court-imposed fine and costs, a reasonable fee for towing and storage. Neither the City nor its employees or agents designated to move vehicles in accordance with the provisions of this chapter shall be responsible for any damage to such vehicle occasioned by such moving, towing or storage.
4. Interference With Snow Removal. Any vehicle parked or standing on any street or alley in violation of any provision of this chapter so as to interfere with prompt and orderly snow removal is declared to be a nuisance, and in addition to being subject to removal and impounding, may be ticketed for illegal parking, and its owner, upon conviction, shall be deemed guilty of a misdemeanor and shall be subject to a fine of \$100.00.
5. Reclaiming Impounded Vehicles. Any person who removes an impounded vehicle from any police-designated impounding area without first paying all fines, costs, towing and storage charges, is guilty of a misdemeanor under this chapter.

69.13 CONTROLLED ACCESS FACILITIES. Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

69.14 PARKING PROHIBITED FROM NOVEMBER 1 TO APRIL 1. No person, except physicians, firemen, or other persons on emergency calls shall park a vehicle on any of the following named streets between November 1 and April 1:

1. Fisher Avenue from the intersection of N. West Street to the intersection of Highway 52, also known as Main Street.

69.15 PARKING PROHIBITED FROM NOVEMBER 1 TO APRIL 1 BETWEEN THE HOURS OF 2:00 A.M. AND 6:00 A.M. No persons, except physicians or other persons on emergency calls shall park a vehicle on any of the following named streets between November 1 and April 1 between the hours of 2:00 a.m. and 6:00 a.m.:

1. Main Street from the intersection of West Street to the intersection of Boody Street.
2. North Lydia Street from Main Street to the Railroad crossing.
3. South Lydia Street on the east side of the street.

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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 that are designated by Section 805.8A of the *Code of Iowa* to be scheduled violations, the scheduled fine for each of those violations shall be as specified in Section 805.8A of the *Code of Iowa*.

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00) for all violations except snow route parking violations and improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for snow route parking violations is \$100.00 and the simple notice of a fine for improper use of a persons with disabilities parking permit is \$100.00.

(Code of Iowa, Sec. 321.236[1b] & 321L.4[2])

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

70.05 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

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

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

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

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CHAPTER 74

GOLF CARTS AND UTVS (UTILITY TRAIL VEHICLES)

74.01 Purpose

74.02 Definitions

74.03 Operation of Golf Carts and UTVS Permitted

74.04 Prohibited Streets

74.05 Equipment

74.06 Hours

74.07 Speed

74.08 Passengers

74.09 Operation

74.10 Permits

74.11 Violation and Penalty

74.12 City Celebration Waiver

74.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts, as authorized by Section 321.247 of the *Code of Iowa*, as amended, and “UTVs” (utility trail vehicles), as authorized by Section 321.234A of the *Code of Iowa*, as amended, on certain streets in the City. This chapter applies whenever a golf cart or UTV is operated on any street or alley, subject to those exceptions stated herein.

74.02 DEFINITIONS.

1. “Golf cart” means a four wheeled recreational vehicle generally used for the transportation of person(s) in the sport of golf, that is limited in engine displacement to less than 800 cubic centimeters (or the electric equivalent) and total dry weight of less than 800 pounds. Note that a vehicle with the appearance of a “golf cart” but satisfying the requirements of 49 CFR 571.500 (i.e., is a “low speed vehicle”) is not subject to this chapter but rather to the *Code of Iowa* 321.381A.
2. “UTV” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to no more than 2,000 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control

74.03 OPERATION OF GOLF CARTS AND UTVS PERMITTED. Golf carts and UTVs may be operated upon the streets of the City by persons possessing a valid Iowa operator’s license, and at least eighteen (18) years of age, except as prohibited in Section 74.09 of this chapter.

74.04 PROHIBITED STREETS. Golf carts and UTVs shall not be operated upon any City street that is a primary road extension through the City. However, golf carts and UTVs may cross such a primary road extension. Within the City of Ossian, “primary road extension” shall be taken to mean Highway 52 (Fisher Avenue to Main Street).

74.05 EQUIPMENT. Golf carts and UTVs operated upon City streets shall be equipped with at least the following:

1. Must be equipped with either headlights, a slow-moving vehicle sign or a bicycle safety flag which shall be a minimum of five (5) feet from ground level.
2. Adequate and functioning brakes.
3. Muffler and exhaust system adequate to meet City noise ordinances.
4. Seat belts must be worn if they were installed by the original manufacturer.

74.06 HOURS. Golf carts and UTVs may be operated on City streets only between sunrise and sunset, regardless of whether the golf cart or UTV is equipped with lights. Except that a UTV may be operated during prohibited hours to perform snow removal activities.

74.07 SPEED. Golf carts and UTVs shall be subject to posted speed limits, but in no case shall be operated at a speed in excess of twenty-five (25) miles per hour, or at a speed greater than that which is reasonable and proper for the existing conditions.

74.08 PASSENGERS. In addition to the operator, a golf cart or UTV operated on City streets or alleys may carry only two additional persons in the front bench seat and three additional persons if the vehicle has a rear bench seat. However no more than one person can be seated in a bucket seat.

74.09 OPERATION.

1. Except as noted otherwise herein, any person operating a golf cart or UTV on City streets or alleys shall adhere to all traffic signs and signals, and all other traffic rules and regulations.
2. This chapter forbids the operation of golf carts and UTVs on City streets and alleys:
 - A. In a careless, reckless or negligent manner.
 - B. While the operator is under the influence of any intoxicating or illegal substance.
3. This chapter forbids the operation of golf carts and UTVs on:
 - A. Sidewalks.
 - B. City parks or any other land owned by the City.
 - C. Private property without the consent of the property owner.
4. Street Etiquette.
 - A. Except when executing a left turn, golf carts and UTVs shall be driven as close as practical to the right hand edge of any street.
 - B. When necessary to prevent congestion of traffic, golf carts and UTVs shall be pulled to the right hand edge of streets and be stopped to allow other motor vehicles traveling in the same direction to pass.
 - C. When two or more golf carts or UTVs are being operated in the same direction and general vicinity, they shall proceed in single file.

74.10 PERMITS. No person shall operate a golf cart or UTV on any public street or alley for any purpose unless the operator possesses a City of Ossian permit to operate a golf cart or UTV on City streets.

1. DNR registration at the County Recorder's office is required for UTVs and the sticker must be prominently displayed on the UTV.
2. Golf cart and UTV owners need to apply for a permit from the City of Ossian at the City Clerk's office in order to operate a golf cart or UTV on City streets.
3. A permit shall not be issued until the owner has provided the following:

- A. Evidence that the permitted operator(s) is at least 18 years of age and possesses a valid Iowa driver's license.
 - B. Proof that the owner and all permitted operators have liability insurance covering operation of a golf cart or UTV on City streets with limits of liability at least as great as those required by the *Code of Iowa* Chapter 321A.1.11 as amended.
4. Any golf cart or UTV operated on the City streets shall affix the City of Ossian permit sticker prominently on the rear driver's side fender or similar rear component.
 5. All permits issued shall uniquely identify the name(s) and address(es) of the owner and all permitted operators and shall be for a specific golf cart or UTV, as evidenced by its serial number.
 6. The golf cart permit fee shall be twenty-five dollars (\$25.00) per year. UTV owners will need a permit but will be exempt from paying the \$25.00 if they have the required DNR registration and sticker. The fee will not be pro-rated for permits purchased during the year. The fee will not be refunded if the golf cart is sold, or the permit is suspended or revoked.
 7. A permit will be valid between January 1 and December 31. Permits may be purchased at any time during the year but will be valid only through December 31.
 8. Additional operator(s) may be added during the year upon presentation of the required documentation but without an additional fee.
 9. The permit may be suspended or revoked upon finding evidence that the owner or any permitted operator has violated the conditions of the permit or has abused the privilege of being a permit holder.

74.11 VIOLATION AND PENALTY. A violation of this chapter shall be considered a municipal infraction as defined at Chapter 3.01 of this Code of Ordinances and shall be punishable as provided in Chapter 3.03 of this Code of Ordinances.

1. For a first offense, the civil penalty shall be \$100.00.
2. For a second offense the civil penalty shall be \$200.00 and revocation of the City of Ossian permit for a period of 60 days.
3. For a third or subsequent offense the civil penalty shall be \$300.00 and revocation of the City of Ossian permit for a period of 365 days.
4. To all of the above fines shall be added the criminal penalty surcharge and costs pursuant to the Iowa Code.

74.12 CITY CELEBRATION WAIVER. This chapter shall be waived for golf carts and UTVs used by officials, workers, volunteers or participants in a City celebration.

(Ch. 74 – Ord. 78 – Jan. 20 Supp.)

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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

75.08 Parking

75.09 Towing

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

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

1. “All-terrain vehicle” or “ATV” means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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

A. “Off-road utility vehicle – type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – type 2” includes vehicles, other than type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or

less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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. **Unplowed Streets and Other Streets.** Snowmobiles may be operated upon streets which have not been plowed during the snow season and on the following streets: Becker Avenue, Hall Street, Jessie Street, West Broadway Street and Boody Street, for the sole and exclusive purpose of using the most direct street for the ingress to and egress from the City. No snowmobile shall be driven on any street not herein listed or on the above listed streets solely for entertainment or pleasure.

(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 Area.** Snowmobiles may be operated near the railroad tracks, up to the street or alley on either side of the tracks.

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. Private Property. No snowmobile shall be operated upon private property without the express consent of the owner thereof.

7. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

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

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

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

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

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

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

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

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

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

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

75.08 PARKING. Snowmobiles and ATV's shall be parked only at the operator's place of residence, place of business or place of employment, or on City property near the tracks south of the City park.

75.09 TOWING. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

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CHAPTER 76

BICYCLE REGULATIONS

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

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 that by their nature can have no application. Whenever such person dismounts from a bicycle, the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

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

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

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

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

76.05 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])

76.06 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])

76.07 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])

76.08 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])

76.09 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City.

76.10 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.

76.11 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])

76.12 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])

76.13 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] & Sec. 321.90)

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

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

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

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 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. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the 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 fifty dollars (\$50.00) if claimed within five (5) days of impounding, plus five dollars (\$5.00) 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 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 81

RAILROAD REGULATIONS

81.01 Definitions

81.02 Warning Signals

81.03 Obstructing Streets

81.04 Crossing Maintenance

81.05 Speed

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

1. “Operator” means any individual, partnership, corporation or other association that owns, operates, drives, or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

Operators violating any provision of this section are guilty of a misdemeanor. An employee is not guilty of such violation if the action is necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Such guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973[1943])

(Code of Iowa, Sec. 364.11)

81.05 SPEED. It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than twenty-five (25) miles per hour.
(*Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834,[1923]*)

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.14 Curb Valve
90.02 Superintendent's Duties	90.15 Interior Valve
90.03 Mandatory Connections	90.16 Inspection and Approval
90.04 Abandoned Connections	90.17 Completion by the City
90.05 Permit	90.18 Shutting off Water Supply
90.06 Fee for Permit	90.19 Operation of Curb Valve and Hydrants
90.07 Compliance with Plumbing Code	90.20 Cross Connections Prohibited
90.08 Plumber Required	90.21 Construction Use
90.09 Excavations	90.22 Boilers and Pressure Vessels
90.10 Tapping Mains	90.23 Line Extensions
90.11 Construction Standards	90.24 Service Outside City
90.12 Responsibility for Water Service Pipe	90.25 No Sale of Water by a Customer
90.13 Failure to Maintain	

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

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

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

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

90.03 MANDATORY CONNECTIONS. The owners of all houses, buildings and structures situated within the City, used for human occupancy, employment, recreation or other purposes 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 water main or service line of the municipal waterworks system of the City, are hereby required to connect such buildings, houses or other structures to the municipal waterworks system within sixty (60) days after the date of official notice to do so, provided that

the property line of the property on which such building, house or structure is located is within one hundred (100) feet of such water main or service line.

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

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the 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 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. Before any permit is issued the person who makes the application shall pay twenty-five dollars (\$25.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

(Code of Iowa, Sec. 384.84)

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

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 CONSTRUCTION STANDARDS. Service lines and appurtenances shall be constructed in accordance with this chapter and/or the *State Plumbing Code*.

1. Steel. AWWA standard specifications 7A.3(1) and 7A.4(2), ASTM A 120-62T.
2. Flexible Polyethylene Plastic. Commercial standards CS 255-63, National Sanitation Foundation approved and stamped as published by United States Department of Commerce minimum rating 125 psi, minimum size ¾-inch I.D.
3. Polyvinyl-Chloride (PVC). Commercial standards 256-63, National Sanitation Foundation approved and stamped as published by United States Department of Commerce, High Impact (type 2) for service lines.
4. Acrylonitrile-Buctaciene-Styrene. Commercial Standards 254-63, National Sanitary Foundation approved and stamped.
5. Copper. ASTM specifications B-88 for type K seamless annealed.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. The City shall only be responsible for installation and maintenance of the water main. The customer shall be responsible for the installation and maintenance of the service from the City water main to the customer's premises, including an interior valve at the house, and all necessary taps, fittings and shut-off valves. The minimum earth cover of the customer service shall be five (5) feet. The City shall determine the size and kind of service to be installed.

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. 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.

90.20 CROSS CONNECTIONS PROHIBITED. Connection, cross connection or permitting the same of any separate water supply to premises which receive water from the City is prohibited.

90.21 CONSTRUCTION USE. Water for building or construction purposes will be furnished by meter measurement, only after suitable deposit has been made—the minimum deposit being twenty-five dollars (\$25.00)—and the amount to be determined by the City depending upon the size of the construction work contemplated; and all water for building or construction purposes, as set forth in the permit, must pass through one and the same meter. Water so supplied shall be discharged through a hose or pipe directly upon material to be wet, or into a barrel or other container, and in no case upon the ground or into or through a ditch or trench and all use of water by other than applicant or use of water for any purpose or upon any premises not so stated or described in the application must be prevented by the applicant, or water service may be discontinued without notice.

90.22 BOILERS AND PRESSURE VESSELS. Customers having boilers and/or pressure vessels receiving a supply of water from the City must have a check valve on the water supply line and a vacuum valve on the steam line to prevent collapse in case the water supply from the City is discontinued or interrupted for any reason, with or without notice.

90.23 LINE EXTENSIONS. The City will construct extensions to its water lines to points within its service area, but the City is not required to make such installations unless the customer pays to the City the entire cost of the installation. All line extensions shall be evidenced by a contract signed by the City and the person advancing funds for said extension. If refund of the advance is to be made, the following method shall apply: twenty percent (20%) of the total gross revenue of water sales per year for each service connected to the new extension described in the agreement, for a period not to exceed five (5) years, provided that the aggregate payments do not exceed the total amount deposited. No refund shall be made from any revenue received

from any lines leading up to or beyond the particular line extension covered by contract. 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.

90.24 SERVICE OUTSIDE CITY.

1. Water may be furnished to any customer on property outside the corporate limits in the event said customer has entered into a Service Contract Agreement upon terms and conditions negotiated between the customer and the City and further providing that said customer has agreed to be bound by the rules and regulations and rates as established by City ordinance. Persons receiving service outside the City limits shall be deemed to have accepted the requirements of the water service and rate ordinances and rules adopted by the Council and its authorized officers.

2. No person shall make any new or additional connection or tap to any water pipe, service line, lateral, or main which is presently a part of or connected to the municipal waterworks system, whether within or without the corporate limits, which shall have the effect of extending municipal water service to any new or additional premises, building, or user located outside the corporate limits of the City, nor shall any existing service line or main on any premises be extended so as to provide municipal water service to any other part of the same premises which is not within the corporate limits of the City. For the purposes of this section, "premises" means a parcel of real estate or adjoining parcels of real estate under common ownership.

90.25 NO SALE OF WATER BY A CUSTOMER. No customer may sell water, for human consumption, that is acquired by the customer from the City Water Service. Violation of this provision will result in the Superintendent immediately shutting off the supply of water to that customer.

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CHAPTER 91

WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems- Exception

91.04 Location of Meters

91.05 Meter Setting

91.06 Meter Repairs

91.07 Right of Entry

91.08 Meter Testing

91.09 Meter Reading Unobtainable

91.10 Meter Cost

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 property owner, in accordance with requirements established 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 REPAIRS. Whenever a water meter is found to be out of order the Superintendent shall have it repaired.

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

91.08 METER TESTING. Upon the written request of the customer, the City shall have the meter tested. All costs associated with the meter testing will be the responsibility of the customer making the request.

91.09 METER READING UNOBTAINABLE. Where a meter has ceased to register, or meter reading could not be obtained, the quantity of water consumed for billing purposes will be based upon an average of the prior six (6) months' consumption, and the conditions of water service prevailing during the period in which the meter failed to register.

91.10 METER COST. A residential property owner is responsible for the cost of the initial ¾-inch or 1-inch meter. Thereafter the City will maintain, repair, and replace the meter. The full cost of any meter larger than that required for a single-family residence will be the sole responsibility of the property owner to purchase, repair, and replace.

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CHAPTER 92

WATER RATES

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

92.07 Lien Exemption
 92.08 Lien Notice
 92.09 Temporary Vacancy
 92.10 Additional Meters
 92.11 Leaks in Water Line

92.01 SERVICE CHARGES. Each customer shall pay a monthly fee of \$6.00 for capital improvements to the utility system, and in addition 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	\$8.00 (minimum bill)
All over 1,000	\$2.75 per 1,000 gallons

The charge for water purchased in bulk directly from the City is one (\$.01) per gallon.

(Ord. 72 – Sep. 18 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City, and which the City has agreed to serve. Water service shall be furnished at the following monthly rates outside the City:

Gallons Used Per Month	Rate
First 1,000	\$11.00 (minimum bill)
1,001 – 9,999	\$ 7.00 per 1,000 gallons
All over 10,000	\$ 2.00 per 1,000 gallons

(Ord. 72 – Sep. 18 Supp.)

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. Meters Read. Water meters shall be read between the 15th and 20th of each month.
2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the 25th 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 10th of each month.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

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.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Clerk'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 fifty dollars (\$50.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

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

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

(Code of Iowa, Sec. 384.84)

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb stop when the property is expected to be vacant for an extended period of time. There shall be a twenty-five dollar (\$25.00) fee collected for shutting the water off at the curb stop and a twenty-five dollar (\$25.00) 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.

92.10 ADDITIONAL METERS. Any building or premises served with water service having more than one water meter will be charged the minimum monthly billing for each water meter. Each water meter will be billed separately at the rate provided in Section 92.02 of this chapter. The minimum monthly bill will be issued regardless of the number of gallons consumed, until such time as the water meter is disconnected.

92.11 LEAKS IN WATER LINE. In the event water usage is increased due to a leak in the water line, or otherwise, the rate for usage shall be based upon the total number of gallons of water, as measured by the water meter.

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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 drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
(IAC, 567-69.3[1])
3. "Building sewer" means 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 a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means the 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 ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

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

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee

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. The person who makes the application shall pay a connection 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.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable

rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

- A. Recommended grade at one-fourth (1/4) inch per foot.
- B. Minimum grade of one-eighth (1/8) inch per foot.
- C. Minimum velocity of 2.00 feet per second with the sewer half full.
- D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall that might thereby be weakened.

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (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 "Y" saddle shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 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])

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

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

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

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

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

than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than 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 (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.

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

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

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

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

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

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

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CHAPTER 98

PRIVATE ON-SITE WASTEWATER SYSTEMS

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

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

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any 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. Where a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with a private on-site wastewater treatment and disposal system complying with the provisions of this chapter.

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

(IAC, 567-69.3[3])

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

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from a private on-site wastewater treatment and disposal system to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground unless such system has been approved by the County Board of Health.

(IAC, 567-69.3[3])

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

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

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CHAPTER 99

SEWER SERVICE CHARGES

99.01 Service Charges

99.02 Special Rates

99.03 Private Water Systems

99.04 Payment of Bills

99.05 Lien for Nonpayment

99.06 Special Agreements Permitted

99.01 SERVICE CHARGES. Each customer shall pay a monthly fee of \$16.00 for major improvements to the municipal sanitary sewer system; and in addition, each customer shall pay for sewer service provided by the City based upon the amount of water consumed 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. The sewer service charges are as follows:

(Code of Iowa, Sec. 384.84)

1. Within the City Limits:
 - A. First 1,000 gallons or lesser amount per month @ \$9.00 (minimum bill).
 - B. All over 1,000 gallons per month @ \$6.40 per 1,000 gallons.
2. Outside the City Limits:
 - A. First 1,000 gallons or lesser amount per month @ \$9.00 (minimum bill).
 - B. All over 1,000 gallons per month @ \$7.40 per 1,000 gallons.

(Sec. 99.01 – Ord. 76 – Jan. 20 Supp.)

99.02 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution. In the event the sewer charge is increased due to a water leak on the customer's property, the rate shall be based on average usage for that customer, rather than actual water usage.

(Code of Iowa, Sec. 384.84)

99.03 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)

99.04 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.

99.05 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the 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)

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

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CHAPTER 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 that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris.
(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.

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) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

- A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
- B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
- C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
- E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.
- F. Furniture and appliances, including bed springs and mattresses.
- G. Dead animals.
- H. Animal or human wastes.
- I. Vehicle parts, oil, grease, gasoline and other petroleum products.

- J. Construction debris, paint, thinners, solvents, toxic and radioactive materials.
- K. Trees, dirt, rubble, yard waste.
- L. Ammunition.

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 leaves shall be done only during the months specified by resolution of the Council and only between the hours of 8:00 a.m. and 6:00 p.m. An adult shall be present at all times to supervise the burning and all fires shall be extinguished by 6:00 p.m. of the day on which the leaves are burned. The burning of leaves shall be restricted to the gutters, and no burning shall be allowed on the blacktop surface of any street or alley within the City limits. The burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (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])

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, such as school bonfires or bonfires conducted by nonprofit organizations, church groups

or similar type of organization, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources, and further provided that the applicant has obtained a permit from the Clerk authorizing said bonfire. Such application shall be made on a form provided by the Clerk.

(IAC, 567-23.2[3e])

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. 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])

8. 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 on the premises, burned in accordance with Section 105.05(4), or transported to a designated site within the City or to designated sites within the County. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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

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

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water or in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

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

(IAC, 567-100.2)

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

105.10 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 be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial 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 some easily accessible place by the owner or occupant of the premises served.
4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

105.11 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 Winneshiek County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

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

106.06 Right of Entry
106.07 Landfill Fee
106.08 Lien for Nonpayment
106.09 Landfill Designation
106.10 Special Exceptions

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be by private contract with collectors. The City shall enter into a hauling agreement with a private hauler to collect the residential solid waste and said private hauler shall be referred to as the City's designated hauler.

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 LANDFILL FEE.

1. There shall be levied and collected from each single-family residential owner located within the City limits a landfill fee in the amount of \$10.25 per month. Such landfill fee is 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.

2. Single-family residential owners living outside the City limits but receiving City water service may, at their option, pay the \$10.25 per month charge and be provided residential solid waste pickup by the City's designated hauler.

3. Commercial waste, including commercial, industrial and multi-family housing waste, may be hauled by the City's designated hauler and, at the option of the commercial property owner, the agreed upon charge may be levied and collected under subsection 1 of this section.

4. During times of fluctuating fuel prices, the designated garbage hauler may assess a monthly fuel adjustment charge to each bill. The fuel adjustment would be based on DNR figures and would be determined on a monthly basis.

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

(Code of Iowa, Sec. 384.84)

106.09 LANDFILL DESIGNATION. The City's designated hauler shall deliver all residential and commercial waste covered by this chapter to the specific landfill designated by the Council, which will initially be the Winneshiek County Sanitary Landfill.

106.10 SPECIAL EXCEPTIONS. The Council may grant special exceptions to the fee charged residential property owners on a needs basis. Such applicant shall meet the same standards applied as to the low income property tax exception. It will in no way affect the amount paid to the City's designated hauler.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.08 Eminent Domain
110.02 Term; Periodic Review	110.09 Confidential Information
110.03 Governing Rules and Regulations	110.10 Force Majeure
110.04 Franchise Fees	110.11 Hold Harmless
110.05 Construction and Maintenance of Company Facilities	110.12 Non Waiver
110.06 Extension of Company Facilities	110.13 Repeal Conflicting Ordinances
110.07 Relocation of Company Facilities	

110.01 FRANCHISE GRANTED. The City (hereinafter referred to as “Grantor”) hereby grants a non-exclusive franchise to Aquila, Inc, d/b/a Aquila Networks, a Delaware corporation, (hereinafter called “Grantee”), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

110.02 TERM; PERIODIC REVIEW. The rights and privileges granted by this chapter shall remain in effect for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter.[†] Grantor shall have the right to review and if it in its sole discretion deems appropriate, terminate the franchise granted by this chapter. The right to review and terminate the franchise may be exercised by Grantor on the following dates: Five (5) years from the date of enactment of the ordinance codified by this chapter; ten (10) years from the date of enactment of the ordinance codified by this chapter; fifteen (15) years from the date of enactment of the ordinance codified by this chapter; twenty (20) years from the date of enactment of the ordinance codified by this chapter. In the event Grantor elects to terminate the franchise, Grantor through its Clerk, shall notify Grantee in writing at least one hundred and eighty (180) days before the effective date of termination.

110.03 GOVERNING RULES AND REGULATIONS.

1. This franchise is granted subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality

[†] **EDITOR’S NOTE:** Ordinance No. 38 adopting a natural gas franchise for the City was passed and adopted on May 1, 2006.

and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this franchise in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of this franchise ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

2. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

110.04 FRANCHISE FEES. Grantor may, during the term of this franchise, in its discretion after public hearing, but not more than once a year, and upon an affirmative vote of Grantor's City Council, impose a franchise fee on customers located within the corporate City limits of Grantor in an ordinance form satisfactory and acceptable to Grantee. The form of assessment and collection of the franchise fee approved by Grantor must be based on one of the following methods: 1) Percentage of gross receipts of regulated sales or transportation revenues collected within the City; 2) Volumetric fee based on the delivery of energy within Grantor's corporate City limits; or 3) Flat fee collected from customers on a nondiscriminatory basis who are located within the City; provided however, that no franchise fee shall be effective against Grantee unless and until the City imposes a fee or tax of the same percentage or other method on the gross revenues, delivery or customers of all other energy suppliers. Grantor may request that Grantee propose ordinance language that will apply the permitted franchise fee.

110.05 CONSTRUCTION AND MAINTENANCE OF COMPANY FACILITIES.

1. Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation.

2. Grantee agrees that for the term of this grant, it will maintain facilities and equipment sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible.

3. Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall

be given to the Grantee a sufficient length of time, considering reasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

110.06 EXTENSION OF COMPANY FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

110.07 RELOCATION OF COMPANY FACILITIES. If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the Grantor, at the cost and expense of Grantee. If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the Grantor or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. Grantor shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the Grantor and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment.

110.08 EMINENT DOMAIN. Unless otherwise permitted to act independently under State law, Grantee is authorized and empowered to appropriate and condemn under the laws of the State so much private property as shall be necessary for the purpose of providing gas utility service to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of providing gas utilities in the public interest upon the approval of the Grantor's City Council. The Grantee must establish the necessity for each taking of public property, and when so established, City Council may approve the condemnation of private property by resolution.

110.09 CONFIDENTIAL INFORMATION. Grantor acknowledges that certain information it might request pursuant to this franchise may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to such proprietary or commercial value, Grantor and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. Grantor shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

110.10 FORCE MAJEURE. It shall not be a breach or default under this franchise if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

110.11 HOLD HARMLESS. Grantee, during the term of this franchise, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, that Grantee need not save harmless Grantor from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

110.12 NON WAIVER. Any waiver of any obligation or default under this franchise shall not be construed as a waiver of any future defaults, whether of like or different character.

110.13 REPEAL CONFLICTING ORDINANCES. This franchise ordinance, when accepted by Grantee, shall constitute the entire agreement between the Grantor and the Grantee relating to this franchise and the same shall supersede all prior ordinances pertaining to this franchise agreement, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 7-3.301 of the City is hereby repealed as of the effective date hereof.

CHAPTER 110A

NATURAL GAS FRANCHISE

110A.01 Franchise Granted
110A.02 Fees and Taxes
110A.03 Payments
110A.04 Franchise Fee

110A.05 City Map
110A.06 Annexation of Ordinances
110A.07 Access to Files and Information

110A.01 FRANCHISE GRANTED. The City of Ossian, Iowa, (hereinafter referred to as the "City") hereby establishes a franchise fee on Black Hills Energy, the City's natural gas franchise provider, (hereinafter referred to as Energy Provider). The Energy Provider shall collect from their customers located within the corporate limits of the City as depicted on the Map (as defined below) including the City of Ossian and pay to the City an amount equal to two percent (2%) of gross receipts the Energy Provider derive from the sale, distribution or transportation of natural gas delivered within the present limits of the City. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

110A.02 FEES AND TAXES. The amount paid by the Energy Provider shall be in lieu of, and the Energy Provider shall be exempt from, all other fees, charges, taxes or assessments which the City may impose for the privilege of doing business within the City, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the City imposes any such fee, charge, tax or assessment, the payment to be made by the Energy Provider in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Energy Provider. Ad valorem property taxes imposed generally upon all real and personal property within the City shall not be deemed to affect the Energy Providers' obligations under this Ordinance.

110A.03 PAYMENTS. The Energy Provider shall report and pay any amount payable under this franchise on a monthly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of the franchise granted by the City of Ossian, Iowa, to the Energy Provider.

110A.04 FRANCHISE FEE. The Energy Provider shall list the franchise fee collected from customers as a separate item on bills for the utility service issued to their customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, the Energy Provider will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of the City, the Energy Provider may reduce the franchise fee payable for natural gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

110A.05 CITY MAP. Within ten (10) days of the date of this ordinance, the City shall provide the Energy Provider with a map of its corporate limits (the "Map"). The Map shall be of sufficient detail to assist the Energy Provider in determining whether their customers reside within the City's corporate limits. The Map along with the Energy Provider's Geographic

Information System (“GIS”) mapping information shall serve as the sole basis for determining the Energy Provider’s obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the City’s corporate limits are changed by annexation or otherwise, it shall be the City’s sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Energy Provider. The Energy Provider’s obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Energy Provider’s receipt from the City of an updated Map including such annexed area, or (b) such time after such Energy Provider’s receipt from the City of an updated Map including such annexed area as is reasonably necessary for the Energy Provider to identify the customers in the annexed area obligated to pay the franchise fee.

110A.06 ANNEXATION ORDINANCES. The City shall provide copies of annexation ordinances to the Energy Provider on a timely basis to ensure appropriate Franchise fee collection from customers within the corporate limits of the City as set forth in Section 4 above.

110A.07 ACCESS TO FILES AND INFORMATION. The City shall have access to and the right to examine, during normal business hours, the Energy Provider’s books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the City shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by the Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by the Energy Provider shall be deducted from the next payment of such franchise fee due by the Energy Provider to the City; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

(Ch. 110A - Ord. 66 – Aug.15 Supp.)

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Grant of Franchise
111.02 Placement of Appliances
111.03 Excavations
111.04 Construction and Maintenance
111.05 Installation of Meters
111.06 Standard of Service

111.07 Nonexclusive Franchise
111.08 Uninterrupted Service
111.09 Franchise Fee
111.10 Term of Franchise
111.11 Entire Agreement

111.01 GRANT OF FRANCHISE. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years;[†] also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 PLACEMENT OF APPLIANCES. The poles, lines, wires, circuits, and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

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

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works

[†] **EDITOR’S NOTE:** Ordinance No. 59 adopting an electric franchise for the City was passed and adopted on April 1st, 2013.

projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall provide an opportunity to secure an easement to allow to operate and maintain its existing facilities.

111.05 INSTALLATION OF METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.06 STANDARD OF SERVICE. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

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

111.08 UNINTERRUPTED SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 FRANCHISE FEE.

1. In its monthly billing the Company shall include a franchise fee of two percent (2%) effective October 1, 2015 on the gross revenues from the sale of electricity to the Company's electric customers located within the corporate limits of the City.

(Ord. 65 – Aug.15 Supp.)

2. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

3. The Company shall commence collecting the franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of the amended tax rider tariff from the Iowa Utilities board.

4. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

5. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or

change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

6. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

7. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

8. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to this section. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

9. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

10. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

11. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the franchise term.

A. The obligation to collect and remit the fee imposed by this chapter is modified if:

(1) Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this

chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

(2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

(3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified in the franchise ordinance with no liability therefor, if:

(1) Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court; or

(2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

(3) The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

12. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this chapter.

13. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

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

111.11 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the written approval and acceptance of the Company. Upon written acceptance by the Company, this franchise ordinance shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City as of the date this franchise ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, other than those approved and accepted by the Company with this chapter, that create additional burdens upon the Company or which delay utility operations.

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CHAPTER 112

ELECTRIC FRANCHISE (TRANSMISSION SYSTEM)

112.01 Grant of Franchise
112.02 Indemnification
112.03 Relocation
112.04 Modern System
112.05 Pruning
112.06 Continuous Service

112.07 Non-Exclusivity
112.08 Undergrounding
112.09 Term of Agreement
112.10 Future Developments
112.11 Closing

112.01 GRANT OF FRANCHISE. There is hereby granted to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the “Company”) the right and franchise to acquire, construct, erect, maintain and operate in the City a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits, and other appliances or equipment and substations for the transmission of electric current (collectively, the “facilities”) along, under and upon the streets, avenues, alleys and public places in the City, and also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City for a period of 25 years,[†] and includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

112.02 INDEMNIFICATION. The facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the 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 Company 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 the transmission system.

112.03 RELOCATION. Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its facilities 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 or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its facilities. 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 alternate 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.

[†] **EDITOR’S NOTE:** Ordinance No. 61 adopting an electric franchise for the City was passed and adopted on July 7, 2014.

112.04 MODERN SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

112.05 PRUNING. To promote public safety in proximity to its facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

112.06 CONTINUOUS SERVICE. Service to be rendered by the Company under the franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

112.07 NON-EXCLUSIVITY. The franchise granted by this chapter shall not be exclusive.

112.08 UNDERGROUNDING. The City may request estimates for the undergrounding of replacement lines, upgrades or new lines, including lines to be adjusted for road moves or for other specific projects. When requested, the Company will provide to the City two estimates: (i) an estimate for the cost of the project with overhead construction; and (ii) an estimate for the cost of the project with underground construction. The City will have no more than 60 days from the estimate date to determine if it wants the line built overhead or placed underground. If the City chooses underground construction for the project, the City will be responsible for the incremental cost of undergrounding, defined as the differential between the estimate for underground construction and the estimate for overhead construction. Upon receipt of the City's payment for the incremental cost of undergrounding, the Company will install the underground facilities. The Company reserves the right to bill City for the amount that the incremental cost associated with installation exceeds its estimate. The City reserves the right to a refund of overpayment if the incremental costs are less than the amount billed in the estimate. If the City wishes to have a line not scheduled for replacement or upgrade placed underground, the City shall contact the Company to make such a request. The City shall cover all costs related to this work. If undergrounding of transmission lines requires entities interconnecting with the Company to make adjustments to their electrical systems, the City bears the responsibility of communication with those entities and, if it chooses, the cost of converting their facilities from overhead to underground. The Company reserves the right to review all of the City's communications with the affected entities.

112.09 TERM OF AGREEMENT. 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 Company, as herein provided. The anniversary date shall be the date the franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

112.10 FUTURE DEVELOPMENTS. The City agrees it will not permit any real estate developments or land uses in the City that would cause the Company's facilities to violate the setback or safety requirements of the *National Electric Safety Code* or any law, regulation or ordinance of the State of Iowa, Winneshiek County, or the City.

112.11 CLOSING. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified, or otherwise amended without the approval and acceptance of the Company. Upon

acceptance by the Company, this chapter shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date the agreement is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or that delay utility operations.

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CHAPTER 113
CABLE TELEVISION FRANCHISE AND
REGULATIONS

113.01 Title	113.19 Technical Standards
113.02 Definitions	113.20 Lockout Device
113.03 Franchise Required	113.21 FCC Reports
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113.06 Rules of Grantee	113.24 Refund Policy
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113.08 Written Notice	113.26 Access to Records
113.09 Drops to Public Buildings	113.27 Indemnification
113.10 Construction Codes and Permits	113.28 Insurance
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113.12 Building Movers	113.30 Procedures for Revocation
113.13 Tree Trimming	113.31 Franchise Violations
113.14 No Waiver	113.32 Subscriber Privacy
113.15 Underground Cable	113.33 Prohibited Acts
113.16 Safety Requirements	113.34 Franchise Renewal or Amendment
113.17 Drop Burial	113.35 Force Majeure
113.18 System Design and Channel Capacity	113.36 Publication; Effective Date; Acceptance

113.01 TITLE. This chapter shall be known and cited as the Cable Communications Franchise.

113.02 DEFINITIONS. For the purposes of this chapter, the following terms, phrases and words shall have the meaning given herein.

1. "Basic cable service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational and governmental access programming required by the franchise to be carried on the basic tier. Basic cable service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7) (1993).
2. "Cable communications service" means the provision of television reception, communications and/or entertainment services distributed over a cable communications system. This definition shall not include telecommunications or data services regulated pursuant to Federal and State law as may be amended from time to time.
3. "Cable communications system" or "system" means a system of antennas, cables, wires, lines, towers, waveguides or other conductors, converters, equipment or facilities located in the City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying or distributing audio, video and other forms of electronic signals in the City. System as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 522(6) (1993).
4. "Cable programming service" means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
 - A. Video programming carried on the basic service tier;
 - B. Video programming offered on a pay-per-channel or pay-per-program basis; or

C. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

- (1) Consists of commonly identified video programming and;
- (2) Is not bundled with any regulated tier of service.

Cable programming service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2) (1993) and 47 C.F.R. 76.901(b) (1993).

5. “Cable service” means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

6. “Converter” means an electronic device which converts signals to a frequency acceptable to a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all cable communications services which the subscriber is lawfully authorized to receive.

7. “Drop” means the cable that connects the ground block on the subscriber’s residence to the nearest feeder cable of the system.

8. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

9. “Grantee” means Mediacom Iowa LLC, its agents and employees, lawful successors, transferees or assignees.

10. “Installation” means the connection of the system from feeder cable to the point of connection, including standard installations and custom installations.

11. “Lockout device” means an optional mechanical or electrical accessory to a subscriber’s terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the cable communication system.

12. “Pay television” means the delivery over the system of pay-per-channel or pay-per-program audio-visual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.

13. “Standard installation” means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.

14. “Street” means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by the City.

15. “Subscriber” means any person who lawfully receives cable service. In the case of multiple office buildings or multiple dwelling units, the subscriber means the lessee, tenant or occupant.

113.03 FRANCHISE REQUIRED. It is unlawful for any person to construct, operate or maintain a cable communications system in the City, unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise. This franchise is granted pursuant to the terms and conditions contained herein.

113.04 GRANT OF NONEXCLUSIVE AUTHORITY.

1. The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable communications system as herein defined.

2. This franchise shall be nonexclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this franchise. Additional cable franchises granted by the City shall contain the terms and conditions which, when taken as a whole, are no more favorable nor less burdensome than those imposed upon Grantee pursuant to this franchise.

113.05 FRANCHISE TERM. This franchise shall be in effect for a period of fifteen (15) years from the effective date,[†] unless renewed, revoked, terminated, shortened or extended as herein provided. Upon acceptance by Grantee as required herein, this franchise shall supersede and replace any previous ordinance or agreement granting a franchise to Grantee to own, operate and maintain a cable communication system within the City.

113.06 RULES OF GRANTEE. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this chapter.

113.07 TERRITORIAL AREA INVOLVED. This franchise is granted for the corporate boundaries of the City, as it exists from time to time.

113.08 WRITTEN NOTICE. All notices, reports, or demands required to be given in writing under this chapter shall be deemed to be given when delivered personally to any officer of Grantee or the City's administrator of this chapter or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon.

113.09 DROPS TO PUBLIC BUILDINGS. Grantee shall provide standard installation of one (1) cable drop, one (1) cable outlet and monthly basic cable service without charge to the following institutions: fire station, community center/library and two schools. Additional drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for cable services are paid. Nothing herein shall be construed as requiring Grantee to extend the system to serve additional institutions as may be designated by the City. Grantee shall have one (1) year from the date of Council designation of additional institutions to complete construction of the drop and outlet.

113.10 CONSTRUCTION CODES AND PERMITS.

1. Grantee shall obtain all necessary permits from the City before commencing any construction upgrade or extension of the system, including the opening or disturbance of any street or private or public property within the City.

[†] **EDITOR'S NOTE:** Ordinance No. 29 adopting a cable television franchise for the City was passed and adopted on October 6, 2003, and was accepted by Mediacom Iowa LLC on October 14, 2003.

2. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this chapter and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of this chapter and applicable provisions of local, State and Federal law.

113.11 REPAIR OF STREETS AND PROPERTY. Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

113.12 BUILDING MOVERS. The Grantee shall, on request of any person holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same, and the Grantee shall be given not less than ten (10) days' advance notice to arrange for such temporary changes.

113.13 TREE TRIMMING. The Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

113.14 NO WAIVER. Nothing contained in this chapter shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

113.15 UNDERGROUND CABLE.

1. In all areas of the City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.
2. In any area of the City where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

113.16 SAFETY REQUIREMENTS. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

113.17 DROP BURIAL. Grantee shall bury all drops in a reasonable time period which shall not exceed twenty-one (21) days of new service or seven (7) days of Council notification, subject to weather conditions and the completion of required utility locates. In the event the ground is frozen, Grantee shall be permitted to delay burial until the ground is suitable for burial which in no event shall be later than April 30.

113.18 STANDARD DESIGN AND CHANNEL CAPACITY.

1. Grantee shall operate and maintain a system capable of providing a minimum of 60 channels throughout the term of the franchise.
2. All final programming decisions remain the discretion of Grantee; provided that Grantee notifies City and subscribers in writing thirty (30) days prior to any channel additions, deletions or realignments, and further subject to Grantee's signal carriage

obligations hereunder and pursuant to 47 U.S.C. § 531-536, and further subject to City's rights pursuant to 47 U.S.C. § 545.

113.19 TECHNICAL STANDARDS. The technical standards used in the operation of the system shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the FCC's rules and regulations and found in Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference.

113.20 LOCKOUT DEVICE. Upon the request of a subscriber, Grantee shall provide by sale or lease a lockout device.

113.21 FCC REPORTS. The results of any tests required to be filed by Grantee with the FCC shall, upon request of City, also be filed with the City or its designee within ten (10) days of the conduct of such tests.

113.22 FRANCHISE FEE.

1. During the term of the franchise, Grantee shall pay to the City a franchise fee in an annual amount equal to five percent (5%) of its annual gross revenues received by the Grantee from subscribers for basic monthly cable television services rendered to subscribers located within the City.
2. Any payments due under this provision shall be payable annually. The payment shall be made within ninety (90) days of the end of each of Grantee's fiscal year together with a brief report showing the basis for the computation.

113.23 SUBSCRIBER INQUIRIES. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.

113.24 REFUND POLICY. In the event a subscriber establishes or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

113.25 CUSTOMER SERVICE STANDARDS. Grantee shall comply with the customer service standards promulgated by the FCC in accordance with Section 632 of the Cable Act for as long as such standards are in effect.

113.26 ACCESS TO RECORDS. The City shall have the right to inspect, upon reasonable notice and during normal business hours, or require Grantee to provide within a reasonable time copies of any records maintained by Grantee which relate to system operations including specifically Grantee's accounting and financial records.

113.27 INDEMNIFICATION. The Grantee shall indemnify, defend and hold harmless the City, its officers, boards, commissions, employees and agents, from and against all claims, liability, judgments for damage arising out of the operation of the cable franchise, except because of City's own programming.

113.28 INSURANCE.

1. Grantee shall file with its acceptance of this franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of the City in its capacity as such. The policies of insurance shall be in the sum of not less than three hundred thousand dollars (\$300,000) for personal injury or death of any one person, and one million dollars (\$1,000,000) for personal injury or death of two or more persons in any one occurrence, three hundred thousand dollars (\$300,000) for property damage to any one person and one million dollars (\$1,000,000) for property damage resulting from any one act or occurrence. Grantee shall provide City with a Certificate of Insurance.

2. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days' advance written notice has been provided to the City.

113.29 CITY'S RIGHT TO REVOKE. In addition to all other rights which the City has pursuant to law or equity, City reserves the right to revoke, terminate or cancel the franchise, and all rights and privileges pertaining thereto, if after the hearing, it is determined that:

1. Grantee has violated any material provision of this chapter; or
2. Grantee has attempted to evade any of the material provisions of this chapter; or
3. Grantee has practiced fraud or deceit upon the City or a subscriber.

113.30 PROCEDURES FOR REVOCATION.

1. The City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee thirty (30) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with this chapter.

2. Grantee shall be provided the right to a public hearing affording due process before the Council prior to revocation, which public hearing shall follow the thirty (30) day notice provided in subsection 1 above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

3. After the public hearing and upon written determination by the City to revoke the franchise, Grantee may appeal said decision to an appropriate State or Federal court or agency.

4. During the appeal period, the franchise shall remain in full force and effect unless the term thereof sooner expires.

113.31 FRANCHISE VIOLATIONS. Whenever City finds that Grantee has violated one or more terms, conditions or provisions of this franchise, a written notice shall be given to Grantee informing it of such violation and the specific requirement for cure of such violation. Grantee shall be provided thirty (30) days or such longer reasonable time which, in the sole determination of City, is necessary to cure the alleged violation.

113.32 SUBSCRIBER PRIVACY. Grantee shall comply with the terms of 47 U.S.C. §551 relating to the protection of subscriber privacy.

113.33 PROHIBITED ACTS.

1. **Unauthorized Connections or Modifications.** It is unlawful for any firm, person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system.
2. **Removal or Destruction.** It is unlawful for any firm, person, group, company, corporation, or governmental body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the system for any purpose whatsoever.
3. **Penalty.** Any firm, person, group, company, corporation or government body or agency found guilty of violating this section may be fined not less than twenty dollars (\$20.00) and the costs of the action nor more than five hundred dollars (\$500.00) and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

113.34 FRANCHISE RENEWAL OR AMENDMENT. Any renewal of this franchise shall be done in accordance with applicable Federal, State and local laws and regulations. Grantee and City may agree, from time to time, to amend this chapter. Such written amendments may be made at any time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in Federal, State or local laws. The City shall act pursuant to local law, pertaining to the ordinance amendment process.

113.35 FORCE MAJEURE. In the event Grantee's performance of any of the terms, conditions, obligations or requirements of this franchise chapter is prevented or impaired due to any cause beyond its reasonable control, such inability to perform shall be deemed to be excused for the period of such inability and no penalties or sanctions shall be imposed as a result thereof.

113.36 PUBLICATION; EFFECTIVE DATE; ACCEPTANCE. The ordinance codified by this chapter shall be published in accordance with applicable Iowa law. The effective date of the franchise shall be the date Grantee has accepted the franchise. Grantee shall accept this franchise within sixty (60) days of its enactment by the City Council, unless the time for acceptance is extended by City. Such acceptance by the Grantee shall be deemed the grant of the franchise for all purposes. Upon acceptance of this franchise, Grantee shall be bound by all the terms and conditions contained herein. Grantee shall accept this franchise in the following manner:

1. This franchise will be properly executed and acknowledged by Grantee and delivered to City.
2. With its acceptance, Grantee shall also deliver the Insurance Certificate required herein that has not previously been delivered.

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CHAPTER 114

ACE COMMUNICATIONS GROUP CABLE TELEVISION FRANCHISE

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114.01 DEFINITIONS. The following terms, phrases, words and their derivations have the meanings given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

1. “Applicable laws” means and includes, but is not limited to, State of Iowa and Federal laws, rules and regulations, and City Code or ordinance provisions, pertaining to cable television systems and to the provision of cable television services, and City Code or ordinance provisions regulating the use or occupancy of City rights-of-way, regulating excavations in or obstructions of City rights-of-way, or regulating streets and sidewalks.
2. “Basic cable service” is the lowest priced tier of service that includes the retransmission of local broadcast television signals. Basic cable service as defined herein shall not be inconsistent with the Cable Act as defined herein.
3. “Cable” means a collection of fibers or copper wires which is contained within a protective sheath.
4. “Cable Act” collectively means the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, as amended.
5. “Cable services” means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
6. “Cable television system,” “system,” “CATV,” or “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 subscribers within a community, but such term does not include:

- A. A facility that serves only to retransmit the television signals of one or more television broadcast stations;
 - B. A facility that serves subscribers without using any public rights-of-way;
 - C. A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§ 201-226, except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. § 541) to the extent such facility is used in the transmission of video programming directly to subscribers; or
 - D. Any facilities of any electric utility used solely for operating its electric utility system.
7. “Cable television service equipment” or “service equipment” means and includes cables, amplifiers, converters, or other pieces of equipment owned by Grantee and typically installed by Grantee on a subscriber’s premises in order to provide cable service.
8. “Cable television system equipment” or “system equipment” means and includes, but is not limited to, the distribution system, towers, house connections, structures, poles, wire, coaxial cable, fixtures, electronic and/or optical components required for connection to or interconnection of fiber-optic and electronic transmission systems, and includes support systems such as electrical service, heating, ventilation and air conditioning, and appurtenances required to make such equipment functional.
9. “FCC” means the Federal Communications Commission.
10. “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.
11. “Franchise fee” means any tax, fee or assessment of any kind imposed by the City on a cable operator or cable subscribers solely because of their status as such. The term “franchise fee” does not include, by way of example: (i) any tax, fee, or assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or subscribers); (ii) capital costs which are required by the Franchise or otherwise to be incurred by the Grantee for PEG facilities; (iii) requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; (iv) any fee imposed under Title 17 of the United States Code; (v) any and all generally applicable costs and expenses incurred by Grantee or generally applicable obligations imposed upon Grantee related to its equipment being in the right-of-way including but not limited to installation, maintenance, removal, or relocation and to any restoration of the right-of-way as a result thereof but not including such costs and expenses which are unduly discriminatory against cable operators or subscribers; or (vi) any civil or criminal penalties or interest on overdue funds.
12. “Governmental authority” means any court or other Federal, State, County, municipal or other governmental department, commission, board, agency or instrumentality.

13. “Grantor” means the City of Ossian, Iowa, as represented by the Council or any delegate acting within the scope of his or her delegated authority. The City Clerk shall be responsible for the continuing administration of the Franchise.
14. “Gross revenues” means any and all revenue received by the Grantee from the operation of the cable system to provide cable service in the service area, provided, however, that such phrase shall not include any fees or franchise fees or taxes which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.
15. “House drop” means the wire or cable that connects each building or home to the main (trunk) cable.
16. “Installation” means the connection of the system to subscribers’ terminals, and the provision of cable service.
17. “Normal business hours” means those hours during which most similar businesses in the City are open to serve customers. In all cases, “normal business hours” must include availability by phone or internet, some evening hours at least one night per week as well as some weekend hours.
18. “Normal operating conditions” means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages beyond the control of the franchisee or any related entity, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the system.
19. “Public access channel” means channel capacity designated for public use.
20. “Right-of-way” means the surface and space above and below any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, tunnel, viaduct, or bridge which has been officially dedicated for public travel and which has traditionally been used for the provision of utility services to the public, in which the City has an interest in law or in equity, whether held in fee or other estate or interest, or as a trustee for the public; provided however, that skywalks, sidewalks within public cemeteries, and sidewalks and trails within public parks and on river levees, shall not be considered right-of-way available for use by cable television grantees.
21. “Service area” or “franchise area” means the municipal boundaries of the City.
22. “Service interruption” means the loss of picture or sound on one or more discreet programming channels regardless of system bandwidth used to provide the programming.
23. “Subscriber” means a person or user of the system who lawfully receives communications and other services therefrom with the Grantee’s express permission.

114.02 OFFICE/SERVICE/BUSINESS CENTER; WRITTEN NOTICE.

1. Office/Service/Business Center. Throughout the term of this franchise, Grantee shall continue to maintain its principal local system office at 207 East Cedar Street, P.O. Box 360, Houston, MN 55943 and service center, now located in the City.

2. **Written Notice.** All notices, reports or demands required or permitted to be given under this chapter shall be in writing and shall be deemed to be given when delivered personally to the party designated below, or when five (5) business days have elapsed after deposit in the United States mail postage prepaid in a sealed envelope and addressed to the party to which notice, report or demand is being given as follows:

If to City: City Clerk	If to Grantee: Todd Roesler, CEO
City of Ossian	Ace Communications Group
Joyce Bakewell, Clerk	207 E. Cedar Street
123 West Main Street	P.O. Box 360
P.O. Box 295	Houston, MN 55943
Ossian, Iowa 52161	
563-532-8939	

Subject to subsections 1 & 2, such addresses may be changed by either party upon notice to the other party given as provided in this section.

114.03 GRANT OF FRANCHISE.

1. **Grant.** Pursuant to the non-exclusive Cable Ordinance No. 49, the Franchise is hereby granted effective on July 1, 2010, subject to the terms and conditions of this chapter.
2. **Right of Grantor to Issue and Renew Franchise.** Grantee acknowledges and accepts the right of Grantor to issue and/or renew the Franchise and Grantee agrees that it shall not now or at any time hereafter challenge any lawful exercise of this right by Grantor in any local, State or Federal court.
3. **Conditions For Use and Occupancy of City Rights-Of-Way and Utility Easements.** Grantee shall be allowed to use and occupy the City rights-of-way, as that term is defined herein, for the emplacement of its cable television system equipment; provided, however, Grantee shall be allowed to use subdivision utility easements to the extent such easements provide for the construction and operation of cable television system equipment and service equipment therein. Further provided, that in such use and occupancy of City rights-of-way and subdivisions utility easements, Grantee shall be subject to all generally applicable City ordinances and obligations therein including, but not limited to, those provisions of this Code of Ordinances regulating the use and occupancy of such rights-of-way, pertaining to excavations for underground cables, and pertaining to streets and sidewalks, and further provided that Grantee shall not construct any cable television plant or system equipment until Grantee has secured the necessary permits from Grantor, or other applicable governmental authorities.
4. **Term.** This Franchise shall commence on its effective date and shall expire on June 30, 2020, unless terminated earlier.
5. **Ownership of Grantee.** Grantee represents and warrants to Grantor that Ace Telephone Association DBA Ace Communications Group is a Minnesota Cooperative Association.
6. **Franchise Renewal.** Any renewal of this Franchise shall be in accordance with applicable laws. Grantor and Grantee, by mutual consent, may enter into renewal negotiations at any time during the term of the Franchise.

114.04 GOVERNING REQUIREMENTS. Grantee shall comply with all lawful requirements of this chapter and applicable laws.

114.05 FRANCHISE FEE. In consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a system within the City, the Grantee shall pay to the Grantor an annual amount equal to five percent (5%) of the Grantee's gross revenues. This includes, but is not limited to, all subscriber payments, installation fees, set top boxes, local advertising, leased access channels, and pay-per-view. This amount shall not include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Grantee on behalf of such governmental unit or agency. Within 30 days after the end of each month, the Grantee shall pay to the City a franchise fee equivalent to five percent (5%) of gross revenues for that month, along with a report showing the calculations for the derivation of the payment along with any other information required by the Grantor. The City reserves the right to require that additional information be submitted by the Grantee detailing revenue relative to the Grantee's facilities and services within the City for such period. In addition, and notwithstanding any other provision herein with respect to books and records of Grantee, upon ten (10) days' prior written notice, Grantor shall have the right to conduct or to have conducted its own independent audit of Grantee's records. All books and records required to do a complete audit of the Grantee's franchise fees shall be provided to the City's auditors. If such audit indicates a franchise fee underpayment of two percent (2%) or more, in addition to any other remedies available to the Grantor, the Grantor may require the Grantee to pay all reasonable costs of such audit and shall remit to Grantor all applicable franchise fees due and payable together with interest thereon at the lessor of the maximum rate permitted by law or five percent (5%) simple per annum.

114.06 NOT FRANCHISE FEES.

1. Grantee acknowledges and agrees that except for the franchise fee obligations as expressly provided for in Section 114.05 hereof, none of the payments or contributions to be made by Grantee or the services, equipment, facilities, support, resources, or reimbursements; or other activities to be provided or performed by Grantee pursuant to this chapter; or expenses in connection with the construction, operation, maintenance, or upgrade of the system (including specifically, but not by way of limitation, such payments, contributions, services, equipment, facilities, support, resources or other activities described in or provided for in any section of this chapter and the exhibits attached to the ordinance codified in this chapter) shall be deemed franchise fees chargeable against the franchise fees payable by Grantee to the City pursuant to Section 114.05 hereof.
2. Grantee acknowledges and agrees that the franchise fee payable by Grantee to the City pursuant to Section 114.05 hereof shall take precedence over all other payments, contributions, services, equipment, facilities, support, resources, or other activities to be provided or performed by the Grantee pursuant to this chapter, and that the franchise fee provided for in Section 114.05 of this chapter shall not be deemed to be in the nature of a tax, and shall be in addition to any and all taxes of general applicability and other generally applicable fees and charges which the Grantee shall be required to pay to the City and/or to any other governmental authority, all of which shall be separate and distinct obligations of Grantee.
3. Grantee shall not apply or seek to apply or make any claim that all or any part of the franchise fee or other payments or contributions to be made by Grantee to Grantor

pursuant to this chapter shall be deducted from or credited or offset against any taxes, fees, or assessments of general applicability levied or imposed by the City or any other governmental authority, including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee or assessment which is unduly discriminatory against Grantee or subscribers.

4. Grantee shall not apply or seek to apply all or any part of any right-of-way registration, permit or inspection fees that may be lawfully imposed; any civil or criminal penalties; any refunds or interest due on any past due obligations; or any taxes, fees, or assessments of general applicability levied or imposed by the City or any other governmental authority as a deduction or other credit from or against any of the franchise fee or other payments or contributions to be paid or made by Grantee to Grantor pursuant to this chapter, each of which shall be deemed to be separate and distinct obligations of the Grantee.

114.07 INSURANCE REQUIREMENTS. The Grantee shall purchase and maintain insurance to protect the Grantee and the City throughout the duration of the Franchise. Said insurance shall be provided by an insurance company(ies) approved by the insurance commissioner of the State of Iowa. Insurance requirements:

1. **Worker's Compensation Insurance.** The Grantee shall procure and maintain during the life of the franchise, Worker's Compensation Insurance, including Employer's Liability Coverage, in accordance with all applicable statutes of the State of Iowa.

2. **Commercial General Liability Insurance.** The Grantee shall procure and maintain during the life of the franchise, Commercial General Liability insurance.

3. **Automobile Liability Insurance.** The Grantee shall procure and maintain during the life of the franchise, Automobile Liability Insurance. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

4. **Umbrella/Excess Insurance.** The coverage's specified in subsections 2 and 3 above may be satisfied with a combination of primary and Umbrella/Excess Insurance. The Umbrella/Excess Insurance shall also be written on a per-occurrence basis and shall include the same endorsement as required of the primary policy(ies).

5. **Insurance for Other Losses.** The Grantee shall assume, during the life of the Franchise, full responsibility for all loss or damage from any cause whatsoever to any property brought onto City property that is owned or rented by the Grantee, or by any of the Grantee's employees, agents, subcontractors, suppliers or their employees; to the extent that such property is utilized in carrying out the provisions of the Franchise. The Grantee shall cause its insurance carrier providing physical damage insurance to the Grantee, to provide a waiver of the right of subrogation against the City.

6. **Changes in Coverage, Limits, Endorsements and Terms.** The City reserves the right to require coverage's and the limits associated with coverage's in subsection 1 through 4 above. The City shall annually review and modify, as the City deems necessary, any coverage's, limits, endorsements and terms. Such changes shall be based on then-current insurance industry practices and procedures.

7. **Subcontractors.** The Grantee shall require that any of its agents and subcontractors who perform work and/or services pursuant to the provisions of this Franchise meet the same insurance requirements as are required of the Grantee.

8. Additional Insured. Except for Worker's Compensation, the insurance policies providing the coverage's specified in subsection 2, 3 and 4 above shall include the "City of Ossian, Iowa, Additional Insured and Governmental Immunities Endorsements" in such form as it may be required by the City.
9. Cancellation or Material Change Notice. The insurance policies providing the coverage's specified in subsections 1 through 4 above shall include the "City of Ossian Cancellation Notice Endorsement" in such form as it may be required by the City. A copy of the current form of this endorsement is attached.
10. Proof of Insurance. The Grantee shall provide, upon request, Certificate(s) of Insurance evidencing all required insurance coverage as provided in subsections 1 through 4.

114.08 INDEMNIFICATION (HOLD HARMLESS). To the fullest extent permitted by law, the Grantee agrees to defend, pay on behalf of, indemnify, and hold harmless the City, its elected and appointed officials, employees, volunteers, and others working on behalf of the City against any and all claims, demands, suits, or loss, including any and all outlay and expense connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City, by reason of personal injury, including bodily injury or death, and property damages, including loss of use thereof, which arises out of or is in any way connected or associated with the work and/or services provided by the Grantee pursuant to the provisions of this franchise. It is the intention of the parties that the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City shall not be liable or in any way responsible for injury, damage, liability, loss, or expense resulting to the Grantee, its officers, employees, subcontractors, and others affiliated with the Grantee due to accidents, mishaps, misconduct, negligence, or injuries either in person or property caused by the work and/or services performed by the Grantee under this franchise. The Grantee expressly agrees to pay the City for all damages caused to the City's premises resulting from the activities of the Grantee, its officers, employees, subcontractors, and others affiliated with the Grantee.

114.09 WAIVER OF SUBROGATION. To the extent permitted by law, the Grantee hereby releases the City, its elected and appointed officials, employees, volunteers, and others working on behalf of the City, from any and all liability or responsibility to the Grantee or anyone claiming through or under the Grantee by way of subrogation or otherwise, for any loss or damage to property caused by fire or other casualty, even if such fire or other casualty shall have been caused by the fault or negligence of the City, its elected and appointed officials, employees, volunteers, or others working on behalf of the City. This provision shall be applicable and in full force and effect only with respect to loss or damages occurring during the time of the Grantee's occupancy or use, and Grantee's policies of insurance shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of the Grantee to recover thereunder.

114.10 RELATIONSHIP OF REMEDIES.

1. Remedies are Non-Exclusive. The remedies provided for in this chapter are cumulative and not exclusive; the exercise of one lawful remedy shall not prevent the exercise of another lawful remedy, or the exercise of any rights of the City at law or equity; provided however, cumulative remedies may not exceed the total wrong involved. By way of example and not limitation, the collection of liquidated damages

by City shall in no respect affect: (i) compensation owed to subscribers; or (ii) Grantee's obligation to comply with the provisions of this chapter or applicable law.

2. No Election of Remedies. The recovery of amounts under the insurance, indemnity or liquidated damages provisions of this chapter shall not be construed as any of the following: (i) an election of remedies, a limit on the liability of Grantee under the Agreement for damages or otherwise; or (ii) an excuse of faithful performance by Grantee.

114.11 TERMINATION OF FRANCHISE.

1. Grounds for Revocation. In addition to any other lawful remedies the City may have, it reserves the right to revoke the Franchise and rescind all rights and privileges associated therewith in the event of a material breach of the Franchise. A material breach or cause for revocation, by way of example, would include:

A. If Grantee should default in the performance of any of its material obligations under the Agreement and fails to cure the default within sixty (60) days after receipt of written notice of the default from the City or such longer time as specified by the City;

B. If a petition is filed by or against Grantee under the Bankruptcy Act, as amended, or any other insolvency or creditors' rights law, State or Federal, and the Grantee shall fail to have it dismissed;

C. If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets;

D. If the Grantee makes an assignment for the benefit of creditors;

E. If the Grantee practices any fraud or deceit upon the subscribers, the City, or the general public;

F. If Grantee misrepresented a material fact in the application for or negotiation of the Franchise or transfer application or in any other appearance before or document submitted to the City Council or to subscribers;

G. If the Grantee ceases to provide services over the cable communications system for seven (7) consecutive days for any reason within the control of the Grantee;

H. If the Grantee fails to comply with any material access provisions;

I. If the Grantee evades any of the provisions of this Code of Ordinances enacted pursuant to Grantor's police powers or this Agreement, which by way of example could include packaging or bundling of services to reduce gross revenues for the purpose of reducing franchise fees payable under Section 114.05 of this chapter.

2. Procedure Prior to Revocation. The City shall give at least sixty (60) days' written notice to the Grantee citing the reasons alleged to constitute cause for revocation, if the reason is of a nature that can be cured, set a reasonable time in which the Grantee must remedy the cause. If, during the 60-day period or such longer period as the City may set, the cause shall be cured to the satisfaction of the City, the City may declare the notice to be null and void. If the Grantee fails to remedy the cause within the time specified or if the breach is of a nature that cannot be remedied, the City Council may, after public hearing and making a written finding of a material violation,

revoke the Franchise. In any event, before the Franchise may be terminated, the Grantee shall be provided with an opportunity to be heard before the City Council.

3. **Effect of Pending Litigation.** Unless a stay is issued by a court of appropriate jurisdiction, pending litigation or any appeal to any regulatory body or court having jurisdiction over the Grantee shall not excuse the Grantee from the performance of its obligations under this chapter or other applicable laws. Failure of the Grantee to perform material obligations because of pending litigation or petition may result in forfeiture or revocation pursuant to the provisions of this section.

4. **Restoration of Public and Private Property.** In removing its plants, structures and equipment, the Grantee shall refill at its own expense, any excavation made by it and shall leave all public ways and places and private property in as good condition as existed prior to Grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. The City shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal. Liability insurance, indemnity, and the security fund provided in this chapter shall continue in full force and effect during the period of removal.

5. **Restoration by City; Reimbursement of Costs.** If the Grantee fails to complete any work required by subsection 4 above or any work required by other law or ordinance within the time established and to the satisfaction of the City, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within thirty (30) days after receipt of any itemized list of such costs.

6. **Lesser Sanctions.** Nothing shall prohibit the City from imposing lesser sanctions or censures than revocation.

7. **Expiration; Extended Operation.** Upon the expiration or termination of the franchise, the City may, by resolution, on its own motion or request of the Grantee, require the Grantee to operate the franchise for an extended period of time not to exceed six months from the date of any such resolution under the same terms and conditions as specified in this chapter and as circumstances warrant. All provisions shall continue to apply to operations during an extension period. The City shall serve written notice at the Grantee's business office of intent to extend under this section at least sixty (60) days prior to expiration of the original franchise or any extensions thereof.

114.12 RESERVATION OF RIGHTS. Grantor and Grantee reserve all rights that they possess unless expressly waived herein; neither party waives any rights to any specific claim for any past or future obligation unless the nature of claim is specifically articulated herein.

114.13 ANNUAL REPORT. Grantee shall, upon written request of the Grantor, submit a written end of the year report to Grantor utilizing the format outlined in the Annual Performance Review Checklist attached to Ordinance No. 49 as Exhibit A.

114.14 REPORTS AND RECORDS. The Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the Grantor. Grantee shall provide all routine filings to Grantor. The Grantor shall have access to, and the right to inspect, any books and records of the Grantee which are reasonably related to and necessary for the administration or enforcement of the terms of this chapter. The Grantee shall not deny the Grantor access to any such records on the basis that such records are under the control of any parent corporation, affiliated entity or a third party. The Grantor may, in

writing, request copies of any such records or books and the Grantee shall provide such copies within ten (10) days of the transmittal of such request. Except where more than one copy would otherwise be required to be supplied or the materials are generally required to be supplied in more than one format, such as both in electronic and print, all reports and records required under this section shall be furnished to the Grantor, upon request, at the sole expense of the Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then the Grantee may request, in writing within five (5) days of the due date for the requested books and records, that the Grantor inspect them at Grantee's office in Houston, Minnesota. Grantee shall at all times maintain and provide Grantor, in whatever format, including electronic format, the Grantor may require and at the sole expense of the Grantee, full and complete plans, records and maps of Grantee's cable system equipment installed or in use in the City, the provision of which shall not unduly discriminate against the Grantee.

114.15 CONFIDENTIALITY. To the extent not inconsistent with applicable law or any ordinance of general applicability, the Grantor agrees to treat as confidential any books and records that constitute proprietary or confidential information under Federal or State law, to the extent the Grantee makes Grantor aware of such confidentiality. The Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or Federal law. If the Grantor believes it must release any such confidential books and records in the course of enforcing this chapter, or for any other reason, it shall advise the Grantee in advance so that the Grantee may take appropriate steps to protect its interests. If the Grantor receives a demand from any person for disclosure of any information designated by the Grantee as confidential, the Grantor shall, so far as consistent with applicable law, advise the Grantee and provide the Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by state and federal law, it shall deny access to any of the Grantee's books and records marked confidential as set forth above to any person.

114.16 FRANCHISE TRANSFER.

1. Grantee shall not voluntarily or involuntarily, by operation of law or otherwise, sell, assign, transfer, lease, sublet or otherwise dispose of, in whole or in part, the Franchise and/or cable system or any of the rights or privileges granted by the Franchise, to any entity not controlled by Grantee's parent entity, without the prior written consent of the City and then only upon such terms and conditions as may be lawfully prescribed by the City, which consent shall not be unreasonably denied or delayed provided that any transferee shall agree to accept all of Grantee's obligations under this chapter. Any attempt to sell, assign, transfer, lease, sublet or otherwise dispose of all or any part of the Franchise and/or cable system or Grantee's rights therein without the prior written consent of the City shall be null and void and shall be grounds for termination of this Agreement.

2. Without limiting the nature of the events requiring the City's approval under this section, the following events shall be deemed to be a sale, assignment or other transfer of the Franchise and/or cable system requiring compliance with this section: (i) the sale, assignment or other transfer of all or a majority of Grantee's assets or the assets comprising the cable system to any person; (ii) the merger of the Grantee or any of its parents with or into another person (including the merger of Grantee or any parent with or into any parent or subsidiary corporation or other person) so as to create a new controlling interest in Grantee; (iii) the consolidation of the Grantee or any of its parents

with any other person so as to create a new controlling interest in Grantee; (iv) the creation of a subsidiary corporation or other entity so as to create a new controlling interest in Grantee; (v) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in Grantee or any of its parents by its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in Grantee; (vi) the issuance of additional capital stock or partnership, membership or other equity interest by Grantee or any of its parents so as to create a new controlling interest in Grantee; and (vii) the entry by the Grantee into an agreement with respect to the management or operation of the Grantee, any of Grantee's parents and/or the system or the subsequent amendment thereof so as to create a new controlling interest in Grantee. The term "controlling interest" as used herein is not limited to majority equity ownership of the Grantee, but also includes actual working control over the Grantee or any parent of Grantee to the extent it results in a change in actual working control of Grantee, or, if applicable, any parent of Grantee and/or the system in whatever manner exercised.

3. The City shall act upon any request for approval of such sale or transfer which includes or is accompanied by such relevant information as is necessary to conduct the City's due diligence on the proposed sale or transfer consistent with FCC Regulations, State, or Federal law.

4. Grantee shall notify the City in writing of any foreclosure or any other judicial sale of all or a substantial part of the property and assets comprising the cable system of the Grantee or upon the termination of any lease or interest covering all or a substantial part of said property and assets. Such notification shall be considered by City as notice that a change in control or ownership of the Franchise has taken place and the provisions under this section governing the consent of City to such change in control or ownership shall apply.

5. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the City may inquire into the qualifications of the prospective transferee or controlling party; and Grantee shall assist the City in any such inquiry. In seeking the City's consent to any change of ownership or control, Grantee shall have the responsibility of ensuring that the transferee completes an application in form and substance reasonably satisfactory to the City, which application shall include the information required under FCC Regulations, this chapter and State and Federal laws. An application, acceptable to the City, shall be submitted to the City not less than one hundred twenty (120) days prior to the date of transfer. The transferee shall be required to establish to the satisfaction of the City that it possesses the legal, technical (including operational), and financial qualifications to operate and maintain the system and that the transferee will agree to cure all defaults, if any, and will comply with all Franchise requirements for the remainder of the term of the Franchise. If, after considering the legal, financial and technical qualities of the transferee and determining that they are satisfactory, the City finds that such transfer is acceptable, the City shall permit such transfer and assignment of the rights and obligations of such Franchise as may be in the public interest. The consent of the City to such transfer shall not be unreasonably denied.

6. Any financial institution having a security interest in any and all of the property and assets of Grantee as security for any loan made to Grantee or any of its affiliates for the construction and/or operation of the cable system must notify the City that it or its designee satisfactory to the Grantor shall take control of and operate the cable television system, in the event of a default in the payment or performance of the debts, liabilities

or obligations of Grantee or its affiliates to such financial institution. Further, said financial institution shall also submit a plan for such operation of the system within thirty (30) days of assuming such control that will ensure continued service and compliance with all Franchise requirements during the term the financial institution or its designee exercises control over the system. The financial institution or its designee shall not exercise control over the system for a period exceeding one (1) year unless extended by the City in its discretion and during said period of time it shall have the right to petition the City to transfer the Franchise to another Grantee.

114.17 EMERGENCY ALERT CAPABILITY. Grantee shall immediately provide the system capability to transmit an emergency alert signal to all subscribers, which at a minimum shall initially be in the form of an audio override capability to permit Grantor to interrupt and cablecast an audio message on all channels simultaneously in the event of disaster or public emergency. The Grantor reserves the right, in its sole discretion, to prescribe rules designating other governmental entities the right to use this emergency alert capability; provided however, the Grantor shall advise the Grantee of and provide the Grantee with a copy of those rules.

114.18 STANDBY POWER. Grantee shall provide standby power generating capacity at the cable communications system headend capable of providing at least twelve (12) hours of emergency supply. Grantee shall maintain standby power supplies at all hubs and node sites capable of providing emergency power within the standard limits of commercially available power supply units.

114.19 TECHNICAL STANDARDS.

1. Grantee shall construct, install, operate and maintain its system in a manner consistent with all applicable laws and, shall at a minimum, comply at all times with all applicable FCC Rules and Regulations, Part 76, Subpart K (Technical Standards), as may be amended from time to time. In addition, Grantee shall provide to the Grantor, upon request, written reports of the results of the Grantee's periodic proof of performance tests conducted pursuant to FCC standards and guidelines.
2. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended, as well as all other applicable laws.
3. All installation of electronic equipment shall be of a permanent nature, durable and installed in accordance with the provisions of the *National Electrical Code*, as amended, and as may from time to time be amended.
4. All of Grantee's plant and equipment, including, but not limited to, distribution system, towers, house connections, structures, poles, wire, coaxial cable, fixtures, and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with City ordinances, good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or interfere with improvements the City may deem appropriate to make or to interfere in any manner with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic.
5. Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

6. If it appears from 2-3 complaints made within a six (6) month period or when there are circumstances indicative of unreliable and/or poor quality cable service being delivered to subscribers, the City Clerk shall have the right and authority to compel the Grantee at the Grantee's own expense to test, analyze, and report on the performance of the system. Such report shall be delivered to the City Clerk no later than 14 days after the City Clerk formally notifies the Grantee of its need to review performance and shall include the following information; the nature of the complaints which precipitated the special tests; the specific system components which were tested, the equipment used and procedures employed in said testing; the results of such tests; and the method in which the subscriber complaints were resolved.

7. The City may, should circumstances appear to merit such attention, require that such tests and analyses be supervised and/or conducted by an independent professional engineer with the requisite expertise in cable television operations who is not a member of the staff of the Grantee. The engineer responsible for the testing shall sign all records of the special tests and shall prepare a report interpreting the results of the tests and recommending corrective actions to be taken by the Grantee. The Grantee shall forward to the City Clerk such records without revisions, deletions or substitutions.

8. Grantee's failure to maintain or to remedy its system to achieve specified technical standards shall constitute a material breach of the Franchise.

114.20 RIGHT OF INSPECTION. In addition to any other right that Grantor shall have under any ordinance of general applicability for regulation of its right-of-way, Grantor shall have the right to inspect all construction, reconstruction or installation work performed by Grantee under the provisions of this chapter to ensure Grantee's compliance.

114.21 PERIODIC EVALUATION, REVIEW AND MODIFICATION.

1. The City may require, in its sole discretion, that the Grantee participate in evaluation sessions with the City during the term of this Agreement; provided, however, Grantee shall be given thirty (30) days' prior written notice of such evaluation sessions and there shall not be more than one evaluation session initiated during any calendar year.

2. Topics which may be discussed at any evaluation session include, but are not limited to, rates, channel capacity, the system performance, system upgrade, programming, PEG channels, municipal uses of the system, subscriber complaints, judicial rulings, FCC rulings, and any other topics the City or Grantee may deem relevant.

3. During an evaluation session, Grantee shall fully cooperate with the City and shall provide without cost such information and documents as the City may reasonably request to perform the evaluation.

4. As a result of an evaluation session, the City or Grantee may determine that an amendment in the terms of this Agreement may be desirable. If such a determination is made, Grantee and the City agree, in good faith, to review the terms of the Agreement and consider amending it accordingly.

114.22 PLACEMENT AND USE OF POLES AND GRANTEE'S FACILITIES.

1. Where poles or other wire-holding structures already serving the City are available for use by any Grantee, but Grantee does not make arrangements for such use,

the City may require Grantee to use such poles and structures if the City determines that the public convenience would be enhanced thereby and if the terms of the use available to Grantee are just and reasonable.

2. Where a public utility serving the City desires to make use of the poles or other wire-holding structures of Grantee but agreement with Grantee cannot be reached, the City may require Grantee to permit such use for such consideration and upon such terms as the City shall deem to be just and reasonable, if the City determines that the use would enhance the public convenience and would not unduly interfere with Grantee's operations.

3. Grantee shall not erect or maintain any poles or aerial wires or cables within any underground districts which have been established by the City or which may hereafter be established by the City. Furthermore, no poles or aerial wires or cables shall be installed or maintained in any area where other utilities are required by law to be underground or where such other utilities are already installed underground.

4. In those areas of the City where Grantee's cables are located on the above-ground transmission or distribution facilities of the public utility providing telephone or electric power service, and in the event that the facilities of both such public utilities subsequently are required to be placed underground, then Grantee likewise shall construct, operate, and maintain its transmission and distribution facilities underground, at Grantee's cost.

114.23 SERVICES AND PROGRAMMING. Grantee shall, at the time the Franchise is granted, and thereafter annually on the anniversary of the effective date, provide the information requested in Exhibit B attached to Ordinance No. 49. Additionally, Grantee shall provide at all times the Grantor with a list of programming services and other services offered. Grantee shall not alter the location of or reduce programming or other services without thirty (30) days' prior written notification to the Grantor and system subscribers except in the case of loss of programming services beyond the control of Grantee.

114.24 SUPPORT FOR LOCAL USAGE.

1. Channels and Support. Grantee shall provide without charge one specially designated noncommercial public access channel available to the public on a first come, nondiscriminatory basis. The channel required for public access, City of Ossian, shall be located on the Basic Service tier (or its equivalent) and available to all subscribers. Such channel shall not be relocated from the current positions arbitrarily, and in any event prior to any relocation, Grantee shall provide thirty (30) days' written notice to Grantor and affected entities. If such channel is relocated on the channel line-up, Grantee shall pay all reasonable expenses to each affected entity attributable to relocation when Grantee relocates the channel on the line-up.

2. Public Access Rules. Grantor shall facilitate the operation of the public access channel(s) and shall establish reasonable rules for programmers to use the public access channel(s). Users of public access must meet reasonable eligibility requirements. Public access users shall deliver programming material to Grantor for scheduling and playback in accordance with reasonable rules published by Grantor, which rules shall not be designed or implemented to discourage public access programming. Grantor's operating personnel shall be available to public access users from at least 8 a.m. to 10:30 p.m. seven days a week in the event of an operational concern.

3. Grantor's Discretion to Reduce or Rebate Support. In the event the City issues additional cable television franchises, the Grantor shall rebate or reduce the Grantee's obligations hereunder if and to the extent that substantially equivalent obligations are not required in any additional cable television franchises that are granted subsequent to this Agreement.

114.25 RATE/SERVICE REGULATION. The City reserves the right to regulate rates and services to the extent consistent with federal law.

114.26 COMPLAINT PROCEDURE. The Grantor shall be responsible for the City's continuing administration of the Franchise, including Grantee's complaint procedures. The Grantee shall establish standard procedures for receiving, acting upon, and resolving subscriber complaints which procedures shall be in writing and filed with the Grantor's office. The Grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system. The Grantee shall keep at its offices a maintenance service log which records the nature of each service complaint, the date it was received, and the disposition of said complaint, including the date of resolution. This log shall be made available upon request for inspection by the Grantor. All service complaint records shall be retained on file for a period consisting of the most recent two years.

114.27 APPLICABLE LAW, FEDERAL, STATE AND CITY JURISDICTION.

1. Consistent with City, State and Federal law, this Agreement and all orders or rulings hereunder shall be construed in such a manner so as not to unduly discriminate against Grantee to the benefit of Grantee's competitors or potential competitors.
2. Subject to all applicable law, in the event that the State or Federal government discontinues regulation in any area of cable communications over which it currently exercises jurisdiction in such manner as to expressly expand rather than limit municipal regulatory authority, Grantor may, if it so elects, adopt rules and regulations in these areas to the extent permitted by law.
3. The rights of the Grantee are subject to the police powers of the City to adopt and enforce. The Grantee shall comply with all ordinances enacted by the City pursuant to that power.
4. Grantee shall not be relieved of its obligation to comply with any ordinance or any of the provisions of this chapter by reason of any failure of the City to enforce prompt compliance.
5. Notwithstanding the provisions of Section 114.24(3) hereof and applicable laws, any additional franchises or authorizations to any person for similar uses of rights-of-way, to the extent Grantor may legally do so, shall be on terms, related to actual physical use and occupation of such right-of-way, no less burdensome and providing benefits no greater than those set forth herein.

114.28 ACKNOWLEDGMENT. In entering into this Agreement, the Grantee and Grantor expressly acknowledge and agree that each of their obligations hereunder have been knowingly, voluntarily and intelligently entered into. Grantee acknowledges and agrees that any capital costs required by this chapter shall not be construed as franchise fees pursuant to Section 114.05 of this chapter.

114.29 FORCE MAJEURE. In the event Grantee's performance of any terms, conditions or obligations required by this chapter is prevented by a cause or event not within Grantee's control, such inability to perform shall be deemed excused for the period of such inability and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of the Grantee shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides and fires.

114.30 MUNICIPAL SERVICE. ACE will provide free Basic Tier service to the Ossian Library and Community Center Building, South Winneshiek Elementary/Middle School and De Sales Grade School.

114.31 ENTIRE AGREEMENT. This Franchise constitutes the entire agreement between the parties and supersedes any and all previous agreements of whatever nature between the parties with respect to the subject matter. This Franchise or Grantee's obligations hereunder shall not be changed, amended or supplemented except by an agreement in writing signed by both parties.

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CHAPTER 115

REGULATION OF CABLE TELEVISION RATES

115.01 Authority
115.02 Rate Regulation Proceedings
115.03 Certification

115.04 Notice of Rate Change
115.05 Delegation of Power

115.01 AUTHORITY. The City has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission (FCC), concerning Cable Rate Regulation, 47 C.F.R. §§76.900 *et. seq.*, as they currently read and hereafter may be amended, which are herewith incorporated by reference.

115.02 RATE REGULATION PROCEEDINGS. Any rate regulation proceedings conducted hereunder shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the City or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by the City, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

1. The City shall publish notice as provided in Section 362.4 of the *Code of Iowa* and shall mail, by certified mail, to the Cable Operator a notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.
2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the City is subject to review by the FCC.
3. The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The City may delegate by resolution the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the City or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may announce the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.
4. In the course of the rate regulation proceeding, the City may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The City may request proprietary information, provided that the City shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator.
6. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by this Code of Ordinances to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.
7. Upon termination of the rate regulation proceeding, the City shall adopt and release a written decision as to whether or not the rate or proposed rate increase is reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.
8. The City may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase.
9. Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.
10. The City shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the laws of the State of Iowa, the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

115.03 CERTIFICATION. The City shall file with the FCC the required certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the City shall notify the Cable Operator that the City has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

115.04 NOTICE OF RATE CHANGE. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the City is not empowered to exercise rate regulation, the Cable Operator shall give notice to the City of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

115.05 DELEGATION OF POWER. The City may delegate its powers to enforce this chapter to municipal employees or officers (the “cable official”). The cable official will have the authority to:

1. Administer oaths and affirmations;
2. Issue subpoenas;
3. Examine witnesses;
4. Rule upon questions of evidence;
5. Take or cause depositions to be taken;
6. Conduct proceedings in accordance with this chapter;
7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and
9. Take actions and make decision or recommend decisions in conformity with this chapter.

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CHAPTER 116

CABLE TELEVISION

CUSTOMER SERVICE STANDARDS

116.01 Enforcement of Customer Service Standards
116.02 Notification

116.03 Rules and Procedures
116.04 Penalty

116.01 ENFORCEMENT OF CUSTOMER SERVICE STANDARDS. The City has the legal authority to adopt and enforce customer service standards for the cable television system in the City as permitted by the Cable Television Consumer Protection and Competition Act of 1992. Upon review of the customer service standards adopted by the FCC on March 11, 1993, by MM Docket No. 92-263 of the FCC, and deeming it in the best interests of the City, the Council hereby adopts by reference the above mentioned customer service standards for cable television service.

116.02 NOTIFICATION. The Clerk shall notify the Cable Operator by registered mail with return receipt that the City has adopted said customer service standards for cable television service, to become effective upon written notification to cable operator.

116.03 RULES AND PROCEDURES. The Council shall establish rules and procedures regarding the process to remedy possible violations of the customer service standards by the Cable Operator. The Council shall provide for notice and opportunity for hearing for both the customers and the Cable Operator in such process.

116.04 PENALTY. If after notice and opportunity for hearing, the City determines that the Cable Operator is not in complete compliance with all the provisions of the customer service standards, the Cable Operator shall reduce the rate for the basic tier of cable service by twenty-five percent (25%) until such time that the City has been satisfied that the Cable Operator is in compliance with all the provisions of the customer service standards. In addition, the Cable Operator shall pay to the City the sum of \$100.00 for each day that the Cable Operator fails to be in compliance with all the provisions of the standards after the date that the Council has passed a resolution stipulating the sections where the Cable Operator is in noncompliance.

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CHAPTER 117

CEMETERY

117.01 Definition
117.02 Trusteeship
117.03 Duties of Clerk
117.04 Records
117.05 Sale of Interment Rights
117.06 Fees, Charges and Payments

117.07 Perpetual Care
117.08 Interment Restricted
117.09 Foundations
117.10 Dangerous Monuments
117.11 Rules and Regulations

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

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

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

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

117.03 DUTIES OF CLERK. The duties of the Clerk with regard to the operation of the cemetery are as follows:

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

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery.
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a report of the cemetery operation to the Council upon request.
3. Rules. See that the rules, regulations and strict proprieties of the place are observed.
4. Sale of Lots. Aid in the sale of lots.
5. Collection of Fees. Aid in the collection of fees and all other charges that may become due the City.

117.04 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

117.05 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

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

117.06 FEES, CHARGES AND PAYMENTS. The payment of all fees and charges shall be made at the office of the Clerk in City Hall where receipts will be issued for all amounts paid. Said fees and charges shall be as follows:

1. Single Grave Lot. The sale price of a single grave lot shall be \$125.00, plus \$125.00 perpetual care, making a total of \$250.00.
2. Grave Openings. The charge for opening and closing of graves shall be established by the contractor approved by the City Council. The charges shall include opening of the grave, refilling, removal of excess material, sodding, and reseeding.

117.07 PERPETUAL CARE. The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

117.08 INTERMENT RESTRICTED. All interments shall be restricted to members of the owner's family, unless the owner or legal representative of the owner, without charge or remuneration, consents in writing that others be buried there. Such written consent shall be addressed to the Clerk, and shall be approved by the Mayor.

1. The interment of two bodies in one grave will not be permitted.
2. The interment of one cremation is allowed in the grave of a family member.
3. The interment of two cremations is allowed in one grave. However, if the two cremations are parents, a cremated child may also be interred in the same grave.

117.09 FOUNDATIONS. All foundation work shall be constructed under the supervision of the Clerk, whose decision as to requirements shall be final. No memorial work of any kind shall be set without a foundation. Memorial means any stone, marker, or monument marking a grave site. Every memorial shall have a foundation not less than 42 inches to 48 inches deep with a six-inch flange around said marker and which shall be smooth and flush with the surface soil.

117.10 DANGEROUS MONUMENTS. When monument work on any burial space is in a dangerous condition and there is no money provided for its repair, the Clerk will remove the same to a place of storage until such time as the lot owner may be contacted and different handling arranged.

117.11 RULES AND REGULATIONS. The rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase interment space for interment of the spouse of the veteran if such space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such space is available

(Code of Iowa, Sec. 523I.304)

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

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

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

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

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

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

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

(Code of Iowa, Sec. 123.30)

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

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

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

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

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

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

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

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

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

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

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.49[21])

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

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

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and that 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.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “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.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar

product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (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 Alcoholic Beverages Division of the Department of Commerce 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, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail

permit to the Alcoholic Beverages Division of the Department of Commerce within 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 Time Restriction
122.02 Definitions	122.12 Revocation of License
122.03 License Required	122.13 Notice
122.04 Application for License	122.14 Hearing
122.05 License Fees	122.15 Record and Determination
122.06 Bonds Required	122.16 Appeal
122.07 Agent for Service of Process	122.17 Effect of Revocation
122.08 License Issued	122.18 Rebates
122.09 Display of License	122.19 License Exemptions
122.10 License Not Transferable	122.20 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of twenty-five dollars (\$25.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day..... \$ 25.00
 - B. For one week..... \$ 100.00
 - C. For up to six (6) months..... \$ 200.00
 - D. For one year or major part thereof..... \$ 300.00

122.06 BONDS REQUIRED.

1. Surety Bond. Before a license under this chapter is issued, each principal shall post a bond, by a surety company authorized to engage in the business of insuring the fidelity of others in Iowa, in the amount of one thousand dollars (\$1,000.00) with the Clerk to the effect that the registrant and the surety shall consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (i) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter and (ii) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with such registrant’s peddling or solicitation. Said bond shall not be retired until after a lapse of one year after the expiration of the license which it covers.
2. Transient Merchant Bond. 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 AGENT FOR SERVICE OF PROCESS. Before the license is issued, the applicant shall first sign an appointment naming the Clerk as agent of the licensee for service of process in the event of claim or litigation against such registrant arising out of or in connection with any peddling or solicitation.

122.08 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, the license fee paid, and other requirements under this chapter fulfilled, a license shall be issued immediately.

122.09 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.

122.10 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.

122.11 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

122.12 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.

122.13 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.

122.14 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.

122.15 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.

122.16 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.

122.17 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.

122.18 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.

122.19 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 local School Districts 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.

122.20 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.16 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 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 peace officer, 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 fifty dollars (\$50.00) 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	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling on Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	

135.01 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 hundred thousand dollars (\$100,000.00) to guarantee such compliance.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	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. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 24 hours after the time such accumulations cease, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than 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. All sidewalks throughout the Business District shall be constructed from lot line to the curb line unless the location of the sidewalk is varied by an appropriate resolution of the Council upon application by the landowner.
- D. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) within 12 inches of the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (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 finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or

approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Notice of Vacation Hearing
137.03 Findings Required

137.04 Disposal of Vacated Streets or Alleys
137.05 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 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.

137.03 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.

137.04 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)

137.05 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
16	May 24, 1876		
17	May 24, 1876		
57	August 1, 1904		
59	November 5, 1906		
60	April 6, 1908		
61	July 7, 1908		
70	July 11, 1911		
29	January 7, 1916		
96	May 1, 1928		
99	June 4, 1929		
8.608	February 4, 1980		
8-610	January 6, 1986		
8-6.10	May 1, 1996		
75	May 7, 2018		

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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.

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 Ossian, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited

140.04 Access Controls Imposed on U.S. No. 52
140.05 Permitted Access Points on U.S. No. 52
140.06 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED ON U.S. NO. 52. There are hereby fixed and established controlled access facilities on the Primary Road System extension improvement, Project No. F-229, Primary Road No. Iowa 52 within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

From Station 6+50 to Station 23+80 (WCL) also from Station 351+65 to Station 361+83 (ECL)

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-912 on file in the office of the Clerk.

140.05 PERMITTED ACCESS POINTS ON U.S. NO. 52. Points of access are hereby permitted as follows:

(Code of Iowa, Sec. 306A.4)

STATION	SIDE OF STREET	WIDTH	USE OF DRIVE OR ENTRANCE
8+44	N	24	Commercial
9+25	S	22	Residential
9+82	S	22	Residential
9+90	N	22	Residential
10+69	S	22	Residential
10+76	N	22	Residential
10+92	N	22	Residential
11+90	N	18	Field Entrance

STATION	SIDE OF STREET	WIDTH	USE OF DRIVE OR ENTRANCE
12+00	S	22	Residential
12+16	S	22	Residential
13+40	S	22	Residential
13+65	S	22	Residential
15+66	S	22	Residential
17+47	S	22	Residential
19+70	N	22	Farm Entrance
21+20	N	18	Farm Entrance
21+36	S	18	Field Entrance
352+21	N	22	Residential
353+56	S	18	Residential
354+41	N	21	Residential
356+14	N	22	Residential
357+63	N	18	Field Entrance
361+66	N	24	Commercial

140.06 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT. The Council is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The Council 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 Council 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 Council. 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 Council.

(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 Council 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 Council shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF OSSIAN, 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 Council and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified

† **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.

to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

FIRE ZONE

146.01 Fire Zone Established
146.02 Plans Submitted
146.03 Buildings Prohibited
146.04 Construction Standards

146.05 Reconstruction Prohibited
146.06 Special Permit
146.07 Removal of Buildings
146.08 Storage of Materials Restricted

146.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

All of Blocks Number Seven (7), Eight (8), Nine (9), Sixteen (16) and Seventeen (17) of Brooks Second Addition to the City of Ossian, Iowa.

146.02 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

146.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

146.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III fire resistant construction, as specified in the *International Building Code*.

146.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

146.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

146.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

146.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut except in the event a hybrid tree is developed and is an improvement to a prohibited tree. If that being the case, the City will consider the improved tree and will determine if an exception will be made to allow the planting of the improved hybrid tree.
4. Approval and Regulation. No person shall plant any trees within a public utility easement or right-of-way without prior written permission of the City. Visibility, overhead power lines, tree height, etc. are some of the things that will be taken into consideration when a tree planting request is made. *(Ord. 74 – Sep. 18 Supp.)*

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 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 155

BUILDING AND LAND USE REGULATIONS

155.01 Purpose	155.16 Restricted Residence District
155.02 Building Official	155.17 Prohibited Use
155.03 Permit Required	155.18 Exceptions
155.04 Application	155.19 Notice Requirements
155.05 Fees	155.20 Front Yard Requirements
155.06 Amendments	155.21 Side Yard Requirements
155.07 Completion of Existing Buildings	155.22 Rear Yard Requirements
155.08 Application Approved	155.23 Minimum Size of Principal Structure
155.09 Erosion Control	155.24 Garages and Other Accessory Buildings
155.10 Action by Council	155.25 Existing Lots
155.11 Restrictions	155.26 Certifying Ordinances
155.12 Condition of the Permit	155.27 Abatement of Violation
155.13 Posting of Permit	155.28 Free Standing Storage Type Buildings
155.14 Revocation	155.29 Outdoor Furnaces
155.15 Permit Void	155.30 Fences, Walls and Hedges

155.01 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations for the erection, reconstruction, altering and repairing of buildings of all kinds, as well as the use and occupancy of such buildings to promote the health, morals, safety and general welfare in the City.

(Code of Iowa, Sec. 364.1)

155.02 BUILDING OFFICIAL. The City Clerk is the building official and is responsible for the administration and enforcement of this chapter.

155.03 PERMIT REQUIRED. No buildings or other structures, including but not limited to, garages, utility sheds, decks, shipping containers, semi-trailers or outdoor furnaces, shall be erected, altered, used, or occupied within the City without first receiving a permit therefore, except that a building permit is not required for a portable utility shed, on skids, measuring 100 square feet or less in size.

(Ord. 70 – Apr. 17 Supp.)

155.04 APPLICATION. Application shall be made in writing, filed with the building official and contain the following information:

1. Name. The name and address of the applicant.
2. Location. The street address and full legal description of the property.
3. Proposed Work. The nature of work proposed to be done.
4. Use. The use for which the structure is or will be used.
5. Plans. Application for permits shall be accompanied by such drawings of the proposed work, drawn to scale, including such floor plans, sections, elevations, and structural details, as the building official may require.
6. Plot Diagram. There shall also be filed a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction or, in the case of demolition, of such construction as is to be demolished and of all existing buildings.

155.05 FEES. A fee of twenty-five dollars (\$25.00) shall accompany the application.

155.06 AMENDMENTS. Nothing shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

155.07 COMPLETION OF EXISTING BUILDINGS. Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before the effective date of the 1997 Code of Ordinances; provided, however, construction under such permit or approval shall have been started within six (6) months and the ground story framework, including structural parts of the second floor, shall have been completed within one year and the entire building completed within two (2) years after the effective date of the 1997 Code of Ordinances.

155.08 APPLICATION APPROVED. It is the duty of the building official to examine applications for permits within a reasonable time after filing. If, after examination, the building official finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, the building official shall forward findings to the Council for its approval or disapproval.

155.09 EROSION CONTROL. When a land disturbing activity, as defined by the *Code of Iowa*, is to occur as a part of a project for which a permit hereunder is sought, no permit shall be issued unless there is on file with the City a soil erosion control plan which covers the proposed project and is approved by the Soil Conservation District Commissioners.

(Code of Iowa, Sec. 161A.64)

155.10 ACTION BY COUNCIL. After receiving the findings of the building official, the Council shall, within a reasonable time, either approve or disapprove the application. If disapproved, the Council shall state its reasons for disapproval and notify the applicant of same. If approved, the Council shall instruct the building official to issue the building permit to the applicant. Said permit shall be issued in duplicate, one copy for the applicant and one copy to be retained in the City records.

155.11 RESTRICTIONS. No permit for the erection, alteration, use or occupancy of a building or similar structure shall be granted unless it definitely appears that such erection, alteration, use or occupancy shall not cause or be the source of the following:

(Code of Iowa, Sec. 414.24)

1. Noise. Any undue noise.
2. Electrical Interference. Any undue radio or television interference.
3. Odors. Any offensive odors.
4. Refuse. Any offensive or unsightly refuse.
5. Smoke. Any offensive or undue smoke.
6. Fire Hazard. Any fire hazard.
7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.

8. Congestion. Any undue gathering, congregating, parking of cars, or undue congestion of people or traffic.
9. Other. Any effect which will be obnoxious, offensive, dangerous or injurious to the health, welfare and safety of citizens.

155.12 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. It is unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

155.13 POSTING OF PERMIT. A copy of the permit shall be kept on the premises open to public inspection during the prosecution of the work and until the completion of same. The building official may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. The building official shall be given at least twenty-four (24) hours notice of the starting of work under a permit.

155.14 REVOCATION. The building official may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

155.15 PERMIT VOID. The permit becomes null and void if work or construction authorized is not commenced within sixty (60) days or if construction or work is suspended or abandoned for a period of one hundred twenty (120) days at any time after work is commenced.

155.16 RESTRICTED RESIDENCE DISTRICT. The following area is hereby defined and established as a restricted residence district:

(Code of Iowa, Sec. 414.24)

All that area lying within the corporate limits of the City except the following described area: Main Street from West Street to Boody Street

155.17 PROHIBITED USE. No building or other structure, except residences, school houses, churches and other similar structures, shall be erected, altered, used or occupied within the restricted residence district as defined herein without first receiving from the Council a special use permit therefor. No such special use permit shall be issued without the affirmative vote of three-fourths (¾) of the full Council.

(Code of Iowa, Sec. 414.24)

155.18 EXCEPTIONS. The provisions of the preceding section shall have no application to any business, store, shop or factory existing and in operation in a restricted residence district on the effective date of the 1997 Code of Ordinances, except in the matter of reconstruction, repair, alteration or change in use of the structure.

155.19 NOTICE REQUIREMENTS. Whenever a restricted residence district is established or changed, a public hearing must be held, notice of which shall be given at least seven (7) days in advance in the manner prescribed in Section 18.05 of this Code of Ordinances.

In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

(Code of Iowa, Sec. 414.24)

155.20 FRONT YARD REQUIREMENTS. Within the restricted residence district there shall be a front yard of not less than thirty (30) feet (measured from the front lot line), except as follows:

(Code of Iowa, Sec. 414.24)

1. **Between Existing Buildings.** Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent buildings on the two (2) sides, or
2. **Adjacent to Existing Building.** Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only within the same block, such building may be erected as close to the street as a line drawn from the closest front corner of that building to a point thirty (30) feet back from the front lot line measured at the center of the lot on which the proposed building is to be erected.
3. **Double Frontage.** Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

155.21 SIDE YARD REQUIREMENTS. No building shall be erected closer than seven (7) feet to either side lot line, except in the business district, where no side yard is required. The side lot line may be less than seven (7) feet, if the property owners adjoining the affected side lot line sign a written agreement to reduce the side yard requirement. Said written agreement must be recorded of record with the County Recorder's office.

(Code of Iowa, Sec. 414.24)

155.22 REAR YARD REQUIREMENTS. There shall be a rear yard provided for each building of not less than thirty (30) feet (when measured from the rear lot line) or twenty percent (20%) of the depth of the lot, whichever amount is smaller, except in the business district, where no rear yard is required. The rear lot line may be less than thirty (30) feet or twenty percent (20%) of the depth of the lot if the property owners adjoining the affected rear lot line sign a written agreement to reduce the rear yard requirement. Said written agreement must be recorded of record with the County Recorder's office.

(Code of Iowa, Sec. 414.24)

155.23 MINIMUM SIZE OF PRINCIPAL STRUCTURE. Within a restricted residential district no principal structure shall have a width or length less than twenty-two (22) feet.

155.24 GARAGES AND OTHER ACCESSORY BUILDINGS. A garage or other similar accessory building may be built in a rear yard but such garage or accessory building shall not occupy more than thirty percent (30%) of a rear yard and shall not be nearer than seven (7) feet to any side lot line or two (2) feet to any rear lot line, except that when a garage is entered from an alley it shall not be located closer than ten (10) feet to the alley line and except that a garage that is located closer than ten (10) feet to the rear line of the main building shall provide the side yard for the main building. Also, a garage or accessory building may be built in a side yard if compliance is made with the same side yard requirements as for the main building. Portable utility sheds measuring less than 100 square feet, which are on skids, are movable and not attached to a foundation, will not require a minimum yard requirement if agreeable with all adjacent property owners.

155.25 EXISTING LOTS. No yard or lot existing on the effective date of the 1997 Code of Ordinances shall be reduced in dimension or area below the minimum requirements established in this chapter.

155.26 CERTIFYING ORDINANCES. Within fifteen (15) days of the effective date of the adoption of any amendments to the provisions of this chapter the Clerk shall certify such amendment to the County Recorder.

(Code of Iowa, Sec. 380.11)

155.27 ABATEMENT OF VIOLATION. Any building or structure erected, altered, used or occupied in violation of this chapter shall be determined a nuisance and the same may be abated by the City or by any property owner within said district in the manner provided for the abatement of nuisances.

155.28 FREE STANDING STORAGE TYPE BUILDINGS. Buildings constructed for the purpose of a storage or utility building must have a concrete foundation or be made rodent-proof. No "Morton-type building" shall be erected without a special permit from the Council. The building's side wall height and peak height will be approved on a case-by-case basis. No galvanized steel siding is allowed, the building must be sided with a house-type siding or colored steel siding, and the roofing material shall need to be approved by the City Council.

155.29 OUTDOOR FURNACES. An outdoor furnace is any type of unit which is installed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat or hot water to any other structure. Along with the requirements needed to obtain a building permit, the following are conditions that must be met when an outdoor furnace is installed:

1. All outdoor furnaces must be installed, operated, and maintained in accordance with the manufacturer's instructions.
2. Only firewood, untreated lumber, fossil fuels, corn and biomass products are permitted to be burned; no yard waste materials or other waste is permitted.
3. The stack (chimney) shall be at least 16 feet above the ground unless circumstances determine it can be less.

155.30 FENCES, WALLS AND HEDGES. Fences, walls and hedges may be permitted in or along the edge of any yard provided that:

1. No fence, wall or hedge in any front yard shall exceed forty-two (42) inches in height; and no fence, wall or hedge shall exceed forty-two (42) inches in height, from the front of the principal dwelling along the street side yard of a corner lot. Except, in the event a fence in a front yard is an open chain link fence, said open chain link fence shall not exceed forty-eight (48) inches in height.
2. No fence or wall in either side or rear yard shall exceed six (6) feet unless otherwise approved by the City Council.
3. Facing: The finished surfaces of any fence hereafter erected shall face toward adjacent properties and street frontage. Every fence hereafter erected shall be done in the following manner: posts, supporting rails and other such supporting elements when located shall be on and face the property on which the fence is located. The owner of a fence shall provide and maintain a two (2) foot setback from adjoining property for the purpose of fence maintenance access.

4. Over an overland flowage easement, no fence, wall, or hedge shall be constructed unless the fence, wall or hedge is raised at least three (3) inches above the ground.

5. No fence shall be constructed within four (4) feet of an alley right-of-way.

6. **Construction and Maintenance:** All fences shall be constructed in a sound and sturdy manner and shall be maintained in a good state of repair, including the replacement of defective parts, painting, and other acts required for maintenance. The City Council after ten (10) days written notice to the owner of the non-conforming fence, may order the removal of any fence that is not maintained in accordance with the provisions of the Code, and the cost of said removal shall be assessed against the property where said fence is located. An extension of time to bring the fence into maintenance conformance by the property owner may be granted to the property owner by the City Council upon the owner filing a verified statement that the delay is not a result of any act of the owner.

7. All fences shall be constructed and maintained with one or more of the following approved material(s): chain link, vinyl coated chain link, vinyl coated aluminum, wood, metal or PVC. Fences shall not be constructed utilizing on or more of the following prohibited materials unless pre-approval is applied for by the property owner and granted by the City Council at a regularly scheduled City Council meeting: barbed wire, razor wire, electric fence, corrugated sheet metal, cattle panels and other material not specifically approved under this ordinance. The erection and use of snow fences shall be prohibited within the City from the time period April 1 through October 31 each year.

8. *(Ord. 68 – Jun. 16 Supp.)*

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CHAPTER 165

SUBDIVISION REGULATIONS

165.01 Title	165.16 Subdivision Classified
165.02 Purpose	165.17 Plats Required
165.03 Application	165.18 Requirements of Preliminary Plat
165.04 Recording of Plat	165.19 Referral of Preliminary Plat
165.05 Terms Defined	165.20 Action by the City Engineer
165.06 Improvements Required	165.21 Action by the Governing Body
165.07 Inspection	165.22 Final Plat
165.08 Minimum Improvements	165.23 Referral of Final Plat
165.09 Completion of Improvements	165.24 Requirements of the Final Plat
165.10 Performance Bond	165.25 Final Plat Attachments
165.11 Minimum Standards	165.26 Action by the Governing Body
165.12 Procedures and Submission Requirements for Plats	165.27 Variances
165.13 Pre-application Conference	165.28 Chain Subdividing
165.14 Sketch Plan Required	165.29 Cost Sharing
165.15 Presentation to City Council	

165.01 TITLE. This chapter shall be known and may be cited as “The City of Ossian, Iowa, Subdivision Control Ordinance.”

165.02 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments will be protected and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with any Comprehensive Plan, and to promote the health, safety and general welfare of the citizens of the City of Ossian, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

165.03 APPLICATION. Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder, as a single lot, parcel or tract on or before the effective date of these regulations (May 5, 2003) into three or more lots, parcels or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City or within two (2) miles of the corporate limits of the City shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots herein contained or placing the plat on record.

165.04 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Ossian, Iowa, or within two (2) miles of the corporate limits of the City as recorded in the office of the County Recorder and filed with the County Auditor, as provided in Section 354.9, *Code of Iowa*, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the governing body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

165.05 TERMS DEFINED. For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term “shall” is always mandatory, and the term “may” is permissive.

1. “Acquisition Plat” means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. “Aliquot Part” means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
3. “Alley” means a public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
4. “Auditor’s Plat” means a subdivision plat required by the Auditor, prepared by a surveyor under the direction of the Auditor or the Assessor.
5. “Block” means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
6. “Building Lines” means a line on a plat between which line and public right-of-way no buildings or structures may be erected.
7. “City Engineer” means the professional engineer licensed in the State of Iowa, designated as City Engineer by the governing body or other hiring authority.
8. “Comprehensive Plan” means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the governing body. Such “Comprehensive Plan” shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
9. “Conveyance” means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.
10. “Cul-de-sac” means a short minor street having one end connecting to another street, and the other end terminated by a vehicular turnaround.
11. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for purposes of this chapter.
12. “Easement” means an authorization by a property owner for another to use a designated part of said owner’s property for a specified purpose.
13. “Forty-Acre Aliquot Part” means one-quarter of one-quarter of a section.
14. “Governing Body” means the City Council of the City of Ossian, Iowa.
15. “Government Lot” means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

16. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.
17. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
18. "Lot, Corner." The term "corner lot" means a lot situated at the intersection of two streets.
19. "Lot, Double Frontage." The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.
20. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
21. "Official Plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the County Recorder, Auditor and Assessor.
22. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before May 5, 2003.
23. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
24. "Parcel" means a part of a tract of land.
25. "Performance Bond" means a surety bond or cash deposit or irrevocable letter of credit made out to the City of Ossian, Iowa, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated or approved by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
26. "Permanent Real Estate Index Number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.
27. "Planning Commission" means the appointed commission designed by the governing body for the purpose of this chapter, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.
28. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.
29. "Plats Officer" means the individual assigned the duty to administer this chapter by the governing body or other appointing authority.
30. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
31. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement or lien interest.

32. “Resubdivision” means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
33. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
34. “Street, Arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
35. “Street, Collector” means a street designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
36. “Street, Local” means a street primarily designed to provide access to abutting property.
37. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
38. “Subdivision” means the accumulative effect of dividing an original lot, tract, or parcel of land, as of May 5, 2003, into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided. Any person not in compliance with the provisions of the subdivision definition at the time of its effective date (May 5, 2003), shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.
39. “Subdivision Plat” means the graphical representation of a subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.
40. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.
41. “Tract” means an aliquot part of a section, a lot within an official plat or a government lot.
42. “Utilities” include publicly or privately owned systems for the distribution of water, gas, and electricity; collection of wastewater, and storm water; and telephone, cable television, and other communication systems.

165.06 IMPROVEMENTS REQUIRED. The subdivider shall, at said subdivider’s expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

165.07 INSPECTION. All improvements shall be inspected by the City or a representative of the City to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City. City will bill subdivider for such inspection services.

165.08 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

1. Streets and alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the governing body after receiving the report and recommendations of the City Engineer.
2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body may require.
3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).
4. Sidewalks. Sidewalks may be required by the governing body if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer.
5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the standards, procedures and requirements of the City.
6. Sewers.
 - A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the governing body and the State Department of Natural Resources and the construction subject to the requirements of the City.
 - B. Where sanitary sewers are not available, other facilities, as approved by the governing body and the State and County Departments of Health must be provided for the adequate disposal of sanitary wastes.
 - C. Storm sewer system and other drainage improvements shall be installed at the subdivider's expense in accordance with drawings and specifications prepared by a licensed engineer and approved by the governing body. Storm drainage systems shall take into consideration two separate design storms (1) minor storm with a 10% annual probability of occurrence to size storm sewer pipes, inlets, street gutters and small swales; (2) major storm with a 1% annual probability of occurrence to analyze flows in excess of the minor system facilities and which are designed to protect against loss of life or serious substantial property damage.
7. Street Lighting. Street lighting shall be installed to provide a minimum illuminum level of 0.4 foot candles.
8. Other Utilities. The subdivider shall make all arrangements and pay any costs associated with extending other utilities to and within the subdivision.

9. Erosion Control. Erosion control measures as required by federal and state laws and regulations shall be implemented and maintained by the subdivider.
10. Permits. The subdivider is required to obtain all federal, state and local permits as may be required by applicable laws and regulations.

165.09 COMPLETION OF IMPROVEMENTS. Before the governing body shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the governing body. Before passage of said resolution of acceptance, the Superintendent of Public Works and/or City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

1. Guarantee/Warranty. The subdivider shall guarantee all public improvements work and materials against all defects for a period of one (1) year from the date of acceptance of the improvements by the governing body. The subdivider shall provide a maintenance bond (or cash or irrevocable letter of credit) for the period of the warranty. A contractor's maintenance bond may be accepted by the governing body in lieu of a subdivider's maintenance bond.

165.10 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond or irrevocable letter of credit with the governing body guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

165.11 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to Existing Streets.
 - A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - B. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.
2. Acreage Subdivisions.
 - A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

- B. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
- C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Local Streets.
- A. Local streets shall be so planned as to discourage through traffic.
- B. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.
- C. Minimum width of local streets shall be 31 feet measured from back of curb to back of curb.
4. Frontage Streets.
- A. Where a subdivision abuts or contains an existing or proposed arterial street, the governing body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the governing body may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
5. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the governing body finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
6. Street Geometries.
- A. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
- B. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
- C. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a horizontal curve with a radius of at least 300 feet. The minimum sight distance shall not be less than two hundred (200) feet for local streets.

- D. The Iowa DOT Urban Design Aids criteria shall govern arterial and collector streets.
7. Intersections.
- A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
- B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.
- C. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the governing body may deem it necessary. The governing body may permit comparable cutoffs or chords in place of rounded corners.
8. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the governing body and other applicable authorities (county, post office, emergency services, etc.).
9. Street Grades.
- A. Street grades, wherever feasible, shall not exceed ten (10) percent, with due allowance for reasonable vertical curves. The minimum rate of vertical curvature (K) shall be 19.
- B. No street grade shall be less than one-half (1/2) of one (1) percent.
- C. Minimum street crown shall be two (2) percent.
10. Alleys.
- A. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
- B. The width of an alley shall be twenty (20) feet.
- C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.
- D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end, as determined by the governing body.
11. Blocks.
- A. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.
- B. In blocks over seven hundred (700) feet in length, the governing body may require at or near the middle of the block a public way or easement of not

- less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.
12. Lots.
- A. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Minimum lot dimensions and sizes.
- (1) Residential lots where not served by public sewer shall not be less than eighty (80) feet wide nor less than ten thousand (10,000) square feet in area, nor less than the minimum size required by the State and County Health Departments for on-site wastewater disposal systems.
- (2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (3) Corner lots for residential use shall be ten (10) feet wider than adjacent lots to permit appropriate building setback from and orientation to both streets.
- C. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.
- D. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
13. Building Lines. Building lines shall be shown on all lots within the platted area. The governing body may require building lines in accordance with the needs of each subdivision.
14. Easements.
- A. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide for all utilities except for sewers, where fifteen (15) feet will be the minimum width.
- B. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.
15. Plat Markers. Markers shall be placed at all block comers, angle points, points of curves in streets, and all such intermediate points as shall be required by state and

county land surveying and platting requirements. The markers shall be of such material, size and length as required by applicable state and county regulations.

165.12 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the governing body, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

165.13 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a pre-application conference with the City Clerk. The conference should be attended by the City Clerk and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

165.14 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

165.15 PRESENTATION TO CITY COUNCIL. The subdivider may present the sketch plan to the governing body for review, prior to incurring significant costs preparing the preliminary or final plat.

165.16 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Means any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.
2. Major Subdivision. Any subdivision that, in the opinion of the governing body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

165.17 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

165.18 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk four (4) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.

4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitation.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities. Indicate size and location of sewers, drains and water lines.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
10. Names and addresses of the owner, subdivider, builder, and engineer and/or surveyor who prepared the preliminary plat, and the surveyor who will prepare the final plat, and the engineer who will prepare the improvement drawings and specifications.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Contours at vertical intervals of not more than two (2) feet unless the City Council waives this requirement.
14. Certification and seal of the land surveyor and/or engineer who prepared the preliminary plats. All copies submitted to the City shall be considered originals.

165.19 REFERRAL OF PRELIMINARY PLAT. The City Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and (2) copies to the governing body.

165.20 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the *Code of Iowa* and the laws and regulations of the City of Ossian, Iowa, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City Engineer's findings in duplicate to the governing body together with one (1) copy of the plat received.

165.21 ACTION BY THE GOVERNING BODY. The governing body shall, upon receiving the report of the City Engineer, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the governing body does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the governing body or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the governing body shall express its approval as “Conditional Approval” and state the conditions of such approval, if any.
3. The action of the governing body shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the governing body.
4. The “Conditional Approval” by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

165.22 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

165.23 REFERRAL OF FINAL PLAT. The subdivider shall, within twelve (12) months of the “Conditional Approval” of the preliminary plat by the governing body prepare and file four (4) copies of the final plat and other required documents with the City Clerk as hereafter set forth, and upon the subdivider’s failure to do so within the time specified, the “Conditional Approval” of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the governing body. All copies of final plat and drawings and specifications for public improvements required by this chapter shall be considered originals and shall have certification and seal of the land surveyor (plat) and of the engineer (drawings and specifications). Upon receipt of the final plat and other required documents, the City Clerk shall transmit two (2) copies of the final plat to the governing body for its recommendations and approval. Except for a final plat for a minor subdivision or an auditor’s plat as set forth herein, no final plat shall be considered by the governing body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. The final plat and other required documents will be referred to the City Engineer pursuant to the procedure established in 165.19 and 165.20.

165.24 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of Chapters 354 and 355, *Code of Iowa*, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch. It shall show:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive.
4. Location, type, materials, and size of all monuments and markers.
5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner’s spouse.
6. A sealed certification of the accuracy of the plat and that the plat conforms to the *Code of Iowa* by the land surveyor who prepared the final plat.

165.25 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.
2. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
3. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
4. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
5. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.
6. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
7. A certificate of dedication of streets and other public property and easements.
8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
9. Licensed professional engineer certified and sealed drawings and specifications for all public improvements as required by this ordinance. Drawings shall be prepared at a suitable scale and provide sufficient details for construction and inspection by the City. Calculations for the design of storm water inlets, pipes and appurtenances shall also be submitted.
10. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk.
11. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, *Code of Iowa*.
12. A hold harmless agreement protecting the City from any damages, claims or suits resulting from the construction and development by the owner and/or subdivider, with said agreement approved as to format by the City Attorney and recorded with the plat.
13. Mortgage holder's consent to plat, if mortgaged.

165.26 ACTION BY THE GOVERNING BODY. Upon receipt of the plat, but not more than sixty (60) days following submission of the final plat to the Clerk as stated in 165.23 the governing body shall either approve or disapprove the final plat.

1. In the event that said plat is disapproved by the governing body, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this chapter, the governing body shall accept the same.
3. The passage of a resolution by the governing body accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Winneshiek County, Iowa, and shall file satisfactory evidence of such recording before the City shall recognize the plat as being in full force and effect.

165.27 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the governing body may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the governing body.

165.28 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of this chapter shall be issued unless the tract has been platted in accordance with this chapter; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the restricted residence district ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

165.29 COST SHARING. Nothing in this chapter nor past actions of the governing body shall obligate the City to pay for any of the public improvements/infrastructure required by this chapter. However, nothing in this chapter nor past actions of the governing body shall preclude cost sharing or financial or technical assistance by the City; as deemed by the governing body to be in the interests of the City.

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