

CODE OF ORDINANCES
OF THE
CITY OF
KELLEY, IOWA

Prepared By: Local Government Professional Services, Inc.
DBA Iowa Codification
P. O. Box 244
114 E 5th Street
Storm Lake, Iowa 50588
(641) 355-4072
www.sc-ic.com

CODE OF ORDINANCES CITY OF KELLEY, IOWA

TABLE OF CONTENTS

GENERAL CODE PROVISIONS

CHAPTER 1 - CODE OF ORDINANCES	1
CHAPTER 2 - CHARTER.....	9
CHAPTER 3 - MUNICIPAL INFRACTIONS	11
CHAPTER 5 - OPERATING PROCEDURES	25
CHAPTER 6 - CITY ELECTIONS	33
CHAPTER 7 - FISCAL MANAGEMENT	39
CHAPTER 8 - URBAN REVITALIZATION	49

ADMINISTRATION, BOARDS, AND COMMISSIONS

CHAPTER 15 - MAYOR.....	65
CHAPTER 16 - MAYOR PRO TEM.....	71
CHAPTER 17 - CITY COUNCIL.....	73
CHAPTER 18 - CITY CLERK	81
CHAPTER 19 - CITY TREASURER.....	89
CHAPTER 20 - CITY ATTORNEY	91
CHAPTER 23 - PLANNING AND ZONING COMMISSION.....	93

TABLE OF CONTENTS

POLICE, FIRE, AND EMERGENCIES

CHAPTER 30 - CONTRACT LAW ENFORCEMENT.....	109
CHAPTER 35 - FIRE PROTECTION	111
CHAPTER 36 - HAZARDOUS SUBSTANCE SPILLS	113

PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	131
CHAPTER 41 - PUBLIC HEALTH AND SAFETY	139
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY	149
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	157
CHAPTER 46 - MINORS.....	163

NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	179
CHAPTER 51 - JUNK AND JUNK VEHICLES	187
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL	193

TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE	221
CHAPTER 61 - TRAFFIC CONTROL DEVICES.....	227
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....	229
CHAPTER 63 - SPEED REGULATIONS.....	239
CHAPTER 64 - TURNING REGULATIONS	245
CHAPTER 65 - STOP OR YIELD REQUIRED	247
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS	249

TABLE OF CONTENTS

TRAFFIC AND VEHICLES (CONTINUED)

CHAPTER 67 - PEDESTRIANS.....	251
CHAPTER 68 - ONE-WAY TRAFFIC	253
CHAPTER 69 - PARKING REGULATIONS	255
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES.....	263
CHAPTER 75 - ATVS, UTVS, AND SNOWMOBILES	275

WATER

CHAPTER 90 - WATER SERVICE SYSTEM	293
CHAPTER 91 - WATER METERS.....	301
CHAPTER 92 - WATER RATES	307

SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM.....	325
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	333
CHAPTER 97 - USE OF PUBLIC SEWERS.....	341
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS	347
CHAPTER 99 - SEWER SERVICE CHARGES.....	353
CHAPTER 100 - INDUSTRIAL PRETREATMENT REQUIREMENTS	359
CHAPTER 101 - STORM WATER UTILITY	365

GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL.....	381
CHAPTER 106 - COLLECTION OF SOLID WASTE	391

TABLE OF CONTENTS

FRANCHISES AND OTHER SERVICES

CHAPTER 110 - ELECTRIC FRANCHISE	407
CHAPTER 111 - CEMETERY	413

REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS	431
CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....	439

STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE.....	457
CHAPTER 136 - SIDEWALK REGULATIONS	465
CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....	473
CHAPTER 138 - STREET GRADES	475
CHAPTER 139 - NAMING OF STREETS.....	477

BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - DANGEROUS BUILDINGS.....	493
CHAPTER 146 - MANUFACTURED AND MOBILE HOMES	501
CHAPTER 150 - BUILDING NUMBERING	507
CHAPTER 151 - FENCES	509
CHAPTER 152 - RESIDENTIAL CODE	517
CHAPTER 153 - BUILDING CODE.....	529
CHAPTER 154 - PROPERTY MAINTENANCE CODE	545

TABLE OF CONTENTS

ZONING AND SUBDIVISION

CHAPTER 165 - ZONING REGULATIONS	561
CHAPTER 170 - SUBDIVISION REGULATIONS.....	653

INDEX

APPENDIX:

USE AND MAINTENANCE OF THE CODE OF ORDINANCES	1
---	---

SUGGESTED FORMS:

DANGEROUS BUILDINGS - FIRST NOTICE.....	7
DANGEROUS BUILDINGS - NOTICE OF HEARING	8
DANGEROUS BUILDINGS - RESOLUTION AND ORDER.....	9
NOTICE TO ABATE NUISANCE	10
NOTICE OF REQUIRED SEWER CONNECTION	11
NOTICE OF HEARING ON REQUIRED SEWER CONNECTION	12
RESOLUTION AND ORDER FOR REQUIRED SEWER CONNECTION	13

TABLE OF CONTENTS

o o o o o o o o o

CHAPTER 1

CODE OF ORDINANCES

1.01 Title	1.08 Amendments
1.02 Definitions	1.09 Catchlines and Notes
1.03 City Powers	1.10 Altering Code
1.04 Indemnity	1.11 Severability
1.05 Personal Injuries	1.12 Warrants
1.06 Rules of Construction	1.13 General Standards for Action
1.07 Extension of Authority	1.14 Standard Penalty

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

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

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

16. “Shall” imposes a duty.

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

18. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

1.14 STANDARD PENALTY. 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 \$105.00 but not to exceed \$855.00. †

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

[The next page is 9]

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

CHAPTER 2

CHARTER

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

- 2.01 TITLE.** This chapter may be cited as the charter of the City of Kelley, Iowa.[†]
- 2.02 FORM OF GOVERNMENT.** The form of government of the City is the Mayor-Council form of government.
(Code of Iowa, Sec. 372.4)
- 2.03 POWERS AND DUTIES OF CITY OFFICERS.** The Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by State law and by the ordinances, resolutions, rules, and regulations of the City.
- 2.04 NUMBER AND TERM OF COUNCIL.** The Council consists of five Council Members elected at large for overlapping terms of four years.
(Code of Iowa, Sec. 376.2)
- 2.05 TERM OF MAYOR.** The Mayor is elected for a term of four years.
(Code of Iowa, Sec. 376.2)
- 2.06 COPIES ON FILE.** The Clerk shall keep an official copy of the charter on file with the official records of the Clerk and the Secretary of State, and shall keep copies of the charter available at the Clerk's office for public inspection.
(Code of Iowa, Sec. 372.1[3])

[†] **EDITOR'S NOTE:** Ordinance No. 51 adopting a charter for the City was passed and approved by the Council on August 9, 1976, and was published in August, 1976. Pursuant to Ordinances No. 96-1 and 96-2, effective January 1, 1996, the Council consists of five members elected at large for overlapping four-year terms, and the Mayor is elected for a term of four years, pursuant to an election held June 6, 1995.

o o o o o o o o o o

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First offense – not to exceed \$750.00.
 - B. Each repeat offense – not to exceed \$1,000.00.

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

2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an 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 24 hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight hours.

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

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

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

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

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

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

3.06 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[12])

[The next page is 25]

CHAPTER 5

OPERATING PROCEDURES

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

(Code of Iowa, Sec. 64.2(6))

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

(Code of Iowa, Sec. 64.24(1a))

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

(Code of Iowa, Sec. 64.3)

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

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

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

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

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

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

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

1. Definitions. The following terms are defined for use in this section.
 - A. “Closed session” means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.
 - B. “Hybrid meeting” means a meeting involving both remote participation and in-person participation by members.

(Code of Iowa, Sec. 21.8(4)(a))
 - C. “Open session” means a meeting to which all members of the public have access.

(Code of Iowa, Sec. 21.2(3))
 - D. “Remote participation” means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.

(Code of Iowa, Sec. 21.8(4)(b))
 - E. “Reasonable notice” means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
(Code of Iowa, Sec. 362.5[3b])
3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.
(Code of Iowa, Sec. 362.5[3c])
4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in Subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.
(Code of Iowa, Sec. 362.5[3e])
5. Newspaper. The designation of an official newspaper.
(Code of Iowa, Sec. 362.5[3f])
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.
(Code of Iowa, Sec. 362.5[3g])
7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.
(Code of Iowa, Sec. 362.5[3h])
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.
(Code of Iowa, Sec. 362.5[3i])
9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.
(Code of Iowa, Sec. 362.5[3d])
10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.
(Code of Iowa, Sec. 362.5[3j])
11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.
(Code of Iowa, Sec. 362.5[3k])
12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.
(Code of Iowa, Sec. 362.5[3l])

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

[The next page is 33]

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 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, and 45.6)

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

(Code of Iowa, Sec. 45.4)

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

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

[The next page is 39]

CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose

7.02 Finance Officer

7.03 Cash Control

7.04 Fund Control

7.05 Operating Budget Preparation

7.06 Budget Amendments

7.07 Accounting

7.08 Financial Reports

7.09 Setoff Program Provisions

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

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

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

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

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

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

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

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

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

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

(545 IAC 2.5[2])

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

(545 IAC 2.5[3])

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

(545 IAC 2.5[4])

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

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

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

(545 IAC 2.5[5])

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

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

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

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

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

4. Annual Statement.

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

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

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

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

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

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

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

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

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

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Section 24.2A(2)(b) of the *Code of Iowa*.

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

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

6. Notice of Hearing. Following, and not until the requirements of Subsection 4 of this section are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less

than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor.

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

7. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations and have them available for distribution at the offices of the Mayor and City Clerk and 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, unless an additional tax levy is approved at a City election. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

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

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

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program, and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

(Code of Iowa, Sec. 384.22)

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

1. Definitions. The following terms are defined for use in this section:
 - A. “Department” means the Iowa Department of Revenue.
 - B. “Obligor” means a person, not including a public agency, who has been determined to owe a qualifying debt.
 - C. “Public agency” means a board, commission, department, including the Department of Revenue, or other administrative office or unit of the State or any other State entity reported in the Iowa Annual Comprehensive Financial Report, or a political subdivision of the State, or an office or unit of a political subdivision. Public agency does include the Clerk of the District Court as it relates to the collection of a qualifying debt. Public agency does not include the general assembly or Office of the Governor.
 - D. “Public payment” means any claim a public agency owes to an obligor.
 - E. “Qualifying debt” means any of the following:
 - (1) Any debt, which is assigned to the Department of Health and Human Services, or which is owed to the Department of Health and Human Services for unpaid premiums under Section 249A.3(2)(a)(1) of the *Code of Iowa*, or which child support services is otherwise attempting to collect, or which foster care services of the Department of Health and Human Services is attempting to collect on behalf of a child receiving foster care provided by the Department of Health and Human Services.
 - (2) Any debt which is in the form of a liquidated sum due, owing, and payable to the Clerk of the District Court.
 - (3) Any liquidated sum certain, owing, and payable to a public agency, with respect to which the public agency has provided the obligor an opportunity to protest or challenge the sum in a manner in compliance with applicable law and due process, and which has been determined as owing through the challenge or protest, or for which the time period provided by the public agency to challenge, or protest has expired.
2. Memorandum of Understanding. The City shall enter into a memorandum of understanding with the Department which shall outline the program guidelines for use of the State Setoff Program.
3. Qualifying Debt. The Clerk shall only certify to the Department qualifying debt as approved by the Department through the completion of a qualifying debt questionnaire and for which the City has provided appropriate documentation showing the City’s legal authority for charging, implementing a fine or fee for violation of, or imposing costs related to the abatement of certain conditions when appropriate legal authority exists to the City. The qualifying debt questionnaire may be updated from time to time as required by the City to add or remove qualifying debt or as needed by the Department.

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

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

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

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

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

[The next page is 49]

CHAPTER 8
URBAN REVITALIZATION

EDITOR'S NOTE

Ordinance No. 08-0157, adopted July 8, 2008, designated the Kelley Urban Revitalization Area. This ordinance, not codified herein, is specifically saved from repeal.

[The next page is 65]

CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Cemetery Committee

15.04 COMPENSATION. The salary of the Mayor is \$1,000.00 per year, paid annually.
(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)

[The next page is 71]

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 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])

o o o o o o o o o o

CHAPTER 17
CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

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 \$100,000.00 on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

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

17.06 COMPENSATION. The salary of each Council member is \$25.00 for each meeting of the Council attended, payable annually, up to a total of 17 meetings or \$425.00 per year..

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

[The next page is 81]

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.
2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City, except that ordinances and amendments may be published by posting in the following places:

Kelley Post Office
Kelley Community Building
Fire Station

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[The next page is 89]

CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The 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.

o o o o o o o o o o

CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor, 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 that may be required for the use of the City.

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

o o o o o o o o o o

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 and 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon

action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

8. Meeting Minutes. Minutes of each Commission meeting shall be immediately filed in the Clerk's office, and the Commission shall report to the Mayor and Council following the meeting.

(Code of Iowa, Sec. 392.1)

[The next page is 109]

CHAPTER 30

CONTRACT LAW ENFORCEMENT

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

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

o o o o o o o o o o

CHAPTER 35
FIRE PROTECTION

35.01 CONTRACT. Pursuant to Chapter 28E of the *Code of Iowa*, the City has entered into a contract agreement with Westory Fire Agency for fire protection and prevention within the City.

o o o o o o o o o o

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 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 County Sheriff's Department of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The County Sheriff's Department shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the County Sheriff's Department, which shall then notify the Department of Natural Resources.

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

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

No person shall disobey an order of any Peace 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).

[The next page is 131]

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment

40.03 Disorderly Conduct
40.04 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[1a])

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

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

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

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

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

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

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

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

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

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

A. “Deface” means to intentionally mar the external appearance.

B. “Defile” means to intentionally make physically unclean.

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

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

- E. “Show disrespect” means to deface, defile, mutilate, or trample.
 - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
- A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
 - B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
 - C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.3)

[The next page is 139]

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
	41.15 Drug Paraphernalia
	41.16 Failure to Assist

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

41.10 BARBED WIRE AND ELECTRIC FENCES. It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits without the written consent of the Council unless such land consists of 10 acres or more and is used as agricultural land. **(See also Chapter 151.)**

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.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
 - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
 - (1) First-class consumer fireworks:
 - a. Aerial shell kits and reloadable tubes;
 - b. Chasers;
 - c. Helicopters and aerial spinners;
 - d. Firecrackers;
 - e. Mine and shell devices;
 - f. Missile-type rockets;
 - g. Roman candles;
 - h. Sky rockets and bottle rockets;
 - i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.
 - (2) Second-class consumer fireworks:
 - a. Cone fountains;
 - b. Cylindrical fountains;
 - c. Flitter sparklers;
 - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;
 - e. Ground spinners;
 - f. Illuminating torches;
 - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
 - h. Wheels;

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

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

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

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: \$250,000.00 per person
- B. Property Damage:..... \$50,000.00
- C. Total Exposure: \$1,000,000.00

3. Consumer Fireworks.

A. Regulations. A person shall not use or explode consumer fireworks on days other than July 3, 4, and 5 of each year, and only during the hours of 12:00 pm (noon) to 10:00 pm on those specified days in July; December 30th of each year from the hours of 4:00 pm to 10:00 pm; and December 31st of each year starting at 4:00 pm through January 1st ending at 12:30 am.

B. A person shall not use, explode or discharge consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer firework on that property. A person shall not use, explode or discharge consumer fireworks on publicly owned property except as specifically authorized by permit issued pursuant to the City of Kelley Code. A person that chooses to use, explode or discharge Consumer fireworks on their property shall have responsibility to clean up all debris created by the fireworks.

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

5. Sale of Fireworks.

A. No person, retailer, consumer group or otherwise shall sell or display for sale any fireworks without possessing a permit from the State Fire Marshall and complying with all State, Federal, and local laws

B. Temporary sale of display for sale of fireworks is allowed through the use of temporary sale structures.

- (1) Temporary Sale Structures shall only be allowed and erected during the permitted dates for sales according to State Law.
- (2) Temporary sale structure locations shall have hard surface paved parking.
- (3) All fireworks shall be stored in a secured and locked location during non-sale time pursuant State Law.
- (4) Temporary sale structure owners, if not the property owner, shall have written consent by the current property owner at the location where the structure is located.
- (5) Application for a permit shall be submitted to the City Council.

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

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

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

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

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

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

(Code of Iowa, Sec. 727.12)

[The next page is 149]

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 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
2. 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
3. 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

[The next page is 157]

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 21 years of age or more.

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

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

45.04 SOCIAL HOST. A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of 18, to consume or possess on such property any alcoholic beverage. The provisions of this subsection shall not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic beverage in connection with a religious observance, ceremony, or rite.

(Code of Iowa, Sec. 123.47)

[The next page is 163]

CHAPTER 46

MINORS

46.01 Cigarettes and Tobacco

46.02 Contributing to Delinquency

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

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

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

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

[The next page is 179]

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

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

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

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

13. Outside Parking and Storage. The outside parking and storage on property used for residential purposes of large number of vehicles, water craft, trailers, materials, supplies or equipment not customarily used for residential purposes, which is declared a public nuisance because such vehicles (i) obstruct views on streets and private property, (ii) create cluttered and otherwise unsightly areas, (iii) prevent full use of residential streets for residential parking, (iv) decrease adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (v) otherwise adversely affect property values and neighborhood patterns. **(See also Section 165.16)**

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. Storage and Disposal of Solid Waste **(See Chapter 105)**
3. Dangerous Buildings **(See Chapter 145)**
4. Trees **(See Chapter 151)**

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.

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

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

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

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

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

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

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

6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to

† **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.

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

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

7. **Installment Payment of Cost of Abatement.** If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

50.08 ADULT ESTABLISHMENTS.

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

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

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

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

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

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

(Code of Iowa, Sec. 657.12)

[The next page is 187]

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

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

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

A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or 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 that has become the habitat for rats, mice, snakes, or any other vermin or insects.

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

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

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

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

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

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

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

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within 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 days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

[The next page is 193]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Rabies Vaccination
55.02 Animal Neglect	55.12 Owner's Duty
55.03 Livestock Neglect	55.13 Confinement
55.04 Abandonment of Cats and Dogs	55.14 At Large: Impoundment
55.05 Livestock	55.15 Disposition of Animals
55.06 At Large Prohibited	55.16 Pet Awards Prohibited
55.07 Damage or Interference	55.17 Tampering With A Rabies Vaccination Tag
55.08 Annoyance or Disturbance	55.18 Tampering With An Electronic Handling Device
55.09 Number and Type Permitted	55.19 Traps
55.10 Vicious Dogs	55.20 Animal Sanitation

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

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

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

2. "Animal" means a nonhuman vertebrate.

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

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

(Code of Iowa, Sec. 162.2)

4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

5. "Business" means any enterprise relating to any of the following:

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

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

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

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

6. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

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

7. "Fair" means any of the following:

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

A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.

- B. An exhibition of agricultural or manufactured products.
- C. An event for operation of amusement rides or devices or concession booths.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
(*Code of Iowa, Sec. 717E.1*)
9. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.
(*Code of Iowa, Sec. 717.B1*)
10. “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*)
11. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
12. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.
(*Code of Iowa, Sec. 717E.1*)
13. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.
(*Code of Iowa, Sec. 162.2*)
14. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.
(*Code of Iowa, Sec. 162.2*)
15. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.
(*Code of Iowa, Sec. 717.B1*)

55.02 ANIMAL NEGLECT.

1. It is unlawful for a person who owns or has custody of an animal and confines that animal to fail to provide the animal with any of the following conditions for the animal's welfare:

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

A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this section.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

2. This section does not apply to any of the following:

A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the *Code of Iowa*, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

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

(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS. It is unlawful for a person who owns or has custody of a cat or dog to relinquish all rights in and duties to care for the cat or dog. This section does not apply to any of the following:

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.
2. The delivery of a cat or dog to an animal shelter or pound or that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the *Code of Iowa*.
3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

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

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

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

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

55.09 NUMBER AND TYPE PERMITTED.

1. **Number of Dogs Limited.** It is unlawful for a person to keep more than four dogs over the age of four months on any residential or other premises in the City. Persons who owned, possessed or kept more than four dogs on their premises as of January 1, 2009, are permitted to continue to own, possess or keep those dogs only, but are not permitted to replace a dog which dies, is sold, transferred or otherwise disposed of until the total number of dogs has decreased to four.
2. **Number of Cats Limited.** It is unlawful for a person to keep more than five cats over the age of four months on any residential or other premises in the City. Persons

who owned, possessed or kept more than five cats on their premises as of January 1, 2016, must contact City Hall and present a management or reduction plan for approval by the Council.

3. Failure to Comply with Limited Numbers. If any person found not in compliance will be charged the cost for removal of all animals that are over the limit and possible removal of all animals in owners possession, plus a 15 percent administrative fee.

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

55.11 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)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

55.14 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded at the impoundment facilities utilized by the City, 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.

55.15 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two 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 established by the impoundment facility, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

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 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful to tamper with a rabies vaccination tag.*(Code of Iowa, Sec. 351.45)*

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:
 - A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.
 - B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

55.18 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE. It is unlawful to tamper with an electronic handling device.

(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:
 - A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
 - B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

55.19 TRAPS.

1. No person may set traps in the City for the purpose of apprehending wild or domesticated animals. This section does not prohibit:
 - A. Trapping mice, rats or other household vermin; or
 - B. Setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action.
2. The owner or person in lawful possession and control of any premises may utilize live traps to apprehend animals on any premise if such animals constitute a nuisance due to the destruction of property.

55.20 ANIMAL SANITATION.

1. Sanitation of Premises. All structures, pens, or yards wherein animals are kept or housed shall be well maintained and regularly and thoroughly cleaned, and all debris, refuse, manure or other offensive materials removed as often as is necessary to maintain such premises in a clean and sanitary condition at all times, devoid of vermin and free from offensive odors. The County Health Officer, Sheriff's Deputy, or Mayor and Council may inspect, or cause to be inspected, any structure or premises, and issue any such order as may be necessary to enforce the provisions of this section, and any other relevant pertinent rule, regulation or ordinance.
2. Refuse Containers. All refuse and manure and any materials conducive to vermin or which may create any offensive odors, removed from such structure or such premises as aforesaid, shall be placed in suitable tight containers until completely removed from the premises, which containers must be covered with a tightly fitted vermin-proof cover, and such refuse then entirely removed from the premises or actually turned under the surface of the soil in such a manner as to avoid offensive odors, vermin, or any other menace to the public health.

3. Sanitation of Premises. It is prohibited for any person to permit or allow an animal owned by that person or under that person's custody or control to defecate upon public property, park property, public right-of-way, or the property of another, unless such person shall immediately thereafter clean up, remove, and dispose of the feces so deposited.

[The next page is 221]

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 Reports of Traffic Accidents

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Kelley Traffic Code” (and are referred to herein as the “Traffic Code”).

60.02 DEFINITIONS. Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are hereby 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:

1. “Business District” means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.

2. “MPH” means miles per hour.

3. “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.

4. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

5. “Pedestrian” means a person afoot or a person using a pedestrian conveyance.
(Code of Iowa, Sec. 321.1(51))

6. “Pedestrian conveyance” means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.
(Code of Iowa, Sec. 321.1(51A))

7. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
(Code of Iowa, Sec. 321.1(63))

8. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
(Code of Iowa, Sec. 321.1(70))

9. “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.

10. “Stop” means when required, the complete cessation of movement.

11. “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.

12. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.

(Code of Iowa, Sec. 321.1(78))

13. “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.

14. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. Vehicle does not include:

A. Any device moved by human power, including a low-speed electric bicycle.

B. Any device used exclusively upon stationary rails or tracks.

C. Any personal delivery device operated pursuant to Chapter 321O of the *Code of Iowa*.

D. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property, but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.

E. Any steering axle, dolly, auxiliary axle, or other integral part of another vehicle which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.

(Code of Iowa, Section 321.1(90))

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 or, in the absence of a peace officer, any officer of the Fire Department when at the scene of a fire, is authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

[The next page is 227]

CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks

61.03 Standards
61.04 Compliance

61.01 INSTALLATION. The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic, and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 and 321.255)

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

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

61.03 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)

61.04 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 and 321.231A of the *Code of Iowa*.

(Code of Iowa, Sec. 321.256)

o o o o o o o o o o

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

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

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

22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain tobacco, tobacco products alternative nicotine products, vapor products, or cigarettes.
24. Section 321.218 – Operating without valid driver’s license or when disqualified; penalties.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – Driver’s license inspection for motor vehicle rental.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles, highway use.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.235B – Low-speed electric bicycles.
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.
39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
40. Section 321.263 – Information and aid; leaving scene of personal injury accident.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.
43. Section 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
50. Section 321.284 – Open container in motor vehicles, drivers.

51. Section 321.284A – Open container in motor vehicles, passengers.
52. Section 321.288 – Control of vehicle; reduced speed.
53. Section 321.295 – Limitation on bridge or elevated structures.
54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.305 – One-way roadways and rotary traffic islands.
61. Section 321.306 – Roadways laned for traffic.
62. Section 321.307 – Following too closely.
63. Section 321.309 – Towing.
64. Section 321.310 – Towing four-wheel trailers.
65. Section 321.312 – Turning on curve or crest of grade.
66. Section 321.313 – Starting parked vehicle.
67. Section 321.314 – When signal required.
68. Section 321.315 – Signal continuous.
69. Section 321.316 – Stopping.
70. Section 321.317 – Signals by hand and arm or signal device.
71. Section 321.318 – Method of giving hand and arm signals.
72. Section 321.319 – Entering intersections from different highways.
73. Section 321.320 – Left turns; yielding.
74. Section 321.321 – Entering through highways.
75. Section 321.322 – Vehicles entering stop or yield intersection.
76. Section 321.323 – Moving vehicle backward on highway.
77. Section 321.323A – Approaching certain stationary vehicles.
78. Section 321.324 – Operation on approach of emergency vehicles.
79. Section 321.324A – Funeral processions.
80. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
81. Section 321.330 – Use of crosswalks.
82. Section 321.332 – White canes restricted to blind persons.
83. Section 321.333 – Duty of drivers.
84. Section 321.340 – Driving through safety zone.

85. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
86. Section 321.342 – Stop at certain railroad crossings; posting warning.
87. Section 321.343 – Certain vehicles must stop.
88. Section 321.344 – Heavy equipment at crossing.
89. Section 321.344B – Immediate safety threat; penalty.
90. Section 321.354 – Stopping on traveled way.
91. Section 321.359 – Moving other vehicle.
92. Section 321.362 – Unattended motor vehicle.
93. Section 321.363 – Obstruction to driver’s view.
94. Section 321.364 – Preventing contamination of food by hazardous material.
95. Section 321.365 – Coasting prohibited.
96. Section 321.366 – Acts prohibited on fully-controlled access facilities.
97. Section 321.367 – Following fire apparatus.
98. Section 321.368 – Crossing fire hose.
99. Section 321.369 – Putting debris on highway.
100. Section 321.370 – Removing injurious material.
101. Section 321.371 – Clearing up wrecks.
102. Section 321.372 – Discharging pupils, stopping requirements; penalties.
103. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
104. Section 321.381A – Operation of low-speed vehicles.
105. Section 321.382 – Upgrade pulls; minimum speed.
106. Section 321.383 – Exceptions; slow vehicles identified.
107. Section 321.384 – When lighted lamps required.
108. Section 321.385 – Head lamps on motor vehicles.
109. Section 321.386 – Head lamps on motorcycles, motorized bicycles, and all-terrain vehicles.
110. Section 321.387 – Rear lamps.
111. Section 321.388 – Illuminating plates.
112. Section 321.389 – Reflector requirement.
113. Section 321.390 – Reflector requirements.
114. Section 321.392 – Clearance and identification lights.
115. Section 321.393 – Color and mounting.
116. Section 321.394 – Lamp or flag on projecting load.
117. Section 321.395 – Lamps on parked vehicles.

118. Section 321.398 – Lamps on other vehicles and equipment.
119. Section 321.402 – Spot lamps.
120. Section 321.403 – Auxiliary driving lamps.
121. Section 321.404 – Signal lamps and signal devices.
122. Section 321.404A – Light-restricting devices prohibited.
123. Section 321.405 – Self-illumination.
124. Section 321.408 – Back-up lamps.
125. Section 321.409 – Mandatory lighting equipment.
126. Section 321.415 – Required usage of lighting devices.
127. Section 321.417 – Single-beam road-lighting equipment.
128. Section 321.418 – Alternate road-lighting equipment.
129. Section 321.419 – Number of driving lamps required or permitted.
130. Section 321.420 – Number of lamps lighted.
131. Section 321.421 – Special restrictions on lamps.
132. Section 321.422 – Red light in front, rear lights.
133. Section 321.423 – Flashing lights.
134. Section 321.430 – Brake, hitch, and control requirements.
135. Section 321.431 – Performance ability.
136. Section 321.432 – Horns and warning devices.
137. Section 321.433 – Sirens, whistles, air horns, and bells prohibited.
138. Section 321.434 – Bicycle sirens or whistles.
139. Section 321.436 – Mufflers, prevention of noise.
140. Section 321.437 – Mirrors.
141. Section 321.438 – Windshields and windows.
142. Section 321.439 – Windshield wipers.
143. Section 321.440 – Restrictions as to tire equipment.
144. Section 321.441 – Metal tires prohibited.
145. Section 321.442 – Projections on wheels.
146. Section 321.444 – Safety glass.
147. Section 321.445 – Safety belts and safety harnesses; use required.
148. Section 321.446 – Child restraint devices.
149. Section 321.449 – Motor carrier safety rules.
150. Section 321.449A – Rail crew transport drivers.
151. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.

- 152. Section 321.450 – Hazardous materials transportation regulations.
- 153. Section 321.454 – Width of vehicles.
- 154. Section 321.455 – Projecting loads on passenger vehicles.
- 155. Section 321.456 – Height of vehicles.
- 156. Section 321.457 – Maximum length.
- 157. Section 321.458 – Loading beyond front.
- 158. Section 321.460 – Spilling loads on highways.
- 159. Section 321.461 – Trailers and towed vehicles.
- 160. Section 321.462 – Drawbars and safety chains.
- 161. Section 321.463 – Maximum gross weight; exceptions, penalties.
- 162. Section 321.465 – Weighing vehicles and removal of excess.
- 163. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. 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.

[The next page is 239]

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 – 20 MPH.
2. Residence or School District – 25 MPH.
3. Suburban District – 45 MPH.

63.03 PARKS, CEMETERIES, AND PARKING LOTS. A speed in excess of 15 MPH 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)

– NONE –

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)

[The next page is 245]

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns

64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

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

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within the Business District and at any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

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

o o o o o o o o o o

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield Required

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Pedestrians' Right-of-Way

65.01 STOP OR YIELD REQUIRED. Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Chapter 61 of this Traffic Code.

65.02 SCHOOL STOPS. At any school crossing zone, every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 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)

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

(Code of Iowa, Sec. 321.353)

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

65.05 PEDESTRIANS' RIGHT-OF-WAY. 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 so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

o o o o o o o o o o

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

66.05 Truck Routes

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 erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.471 and 472)

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

(Code of Iowa, Sec. 321.473 and 321E.2)

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.473 and 475)

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Chapter 61 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTES. When truck routes have been designated in accordance with Chapter 61, any motor vehicle exceeding established weight limits shall comply with the following:

1. Use of Established Routes. Every such motor vehicle having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon those streets within the City designated as truck routes and none other.

(Code of Iowa, Sec. 321.473)

2. Deliveries Off Truck Route. Any such motor vehicle, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes to the

nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

o o o o o o o o o o

CHAPTER 68
ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

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

o o o o o o o o o o

CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled

69.02 Park Adjacent to Curb

69.03 Parking on One-Way Streets

69.04 Angle Parking

69.05 Manner of Angle Parking

69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited

69.08 Persons with Disabilities Parking

69.09 Truck Parking Limited

69.10 Snow Removal

69.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Chapter 61 of this Traffic Code. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

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

(Code of Iowa, Sec. 321.361)

69.03 PARKING ON ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

- NONE -

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

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 48 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

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

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

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

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

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

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

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

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

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

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

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. and 7:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley, or highway for a period of time of more than 30 minutes.

69.10 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow removal operations unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall.

(Code of Iowa, 321.236[1])

[The next page is 263]

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 and 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. 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 Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$25.00 for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for improper use of a persons with disabilities parking permit is \$100.00.

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

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

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

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

70.06 IMPOUNDING VEHICLES.

1. 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:

A. 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])

B. 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])

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

D. 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])

2. 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.

[The next page is 275]

CHAPTER 75

ATVS, UTVS, AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of ATVs and UTVs

75.06 Negligence

75.07 Accident Reports

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

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

1. “All-terrain vehicle” 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” or “UTV” 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” or “UTV” 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 UTV is also subject to the provisions of this chapter governing the operation of ATVs.

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 and Ch. 321I)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

75.05 OPERATION OF ATVS AND UTVS. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on roadways or highways in accordance with Section 321.234A of the *Code of Iowa*. A City may regulate the operation of registered ATVs and UTVs and may designate streets under the jurisdiction of the City within its corporate limits, and two-lane primary and secondary road extensions in the City, which may be used for the operation of such vehicles. In designating such streets, the City may authorize ATVs and UTVs to stop at service stations or convenience stores along a designated street.

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

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

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

3. Railroad Right-of-Way. ATVs and UTVs shall not be operated on an operating railroad right-of-way. An ATV or UTV 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 and UTVs 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 and UTVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

6. Direct Crossing. An ATV or UTV may make a direct crossing of a highway that is not part of the interstate road system provided all of the following occur:

(Code of Iowa, Sec. 321I.10[5])

A. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

B. The ATV or UTV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

E. The crossing is made from a street, roadway, or highway on which the ATV or UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.

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

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

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

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

[The next page is 293]

CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe
90.02 Superintendent's Duties	90.13 Failure to Maintain
90.03 Mandatory Connections	90.14 Curb Valve
90.04 Abandoned Connections	90.15 Interior Valve
90.05 Permit	90.16 Inspection and Approval
90.06 Fee for Permit and Connection Charge	90.17 Completion by the City
90.07 Compliance with Plumbing Code	90.18 Shutting Off Water Supply
90.08 Plumber Required	90.19 Operation of Curb Valve and Hydrants
90.09 Excavations	90.20 Water Main Plans
90.10 Tapping Mains	90.21 Construction Outside City Limits
90.11 Installation of Water Service Pipe	

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

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

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

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

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

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

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within 60 days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay \$25.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of: \$200.00 for residential uses, \$300.00 for commercial and industrial uses, shall be paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

(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:

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

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

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

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

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation and connection of the water service pipe from the main to the building served (including the shut-off valve) shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe. After installation, the pipe from the main to the shut-off will become the property of the City and the City will be responsible for maintaining the line from the main up to and including the shut-off.

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

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

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

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

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

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

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

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

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

90.20 WATER MAIN PLANS. Before installation of any new water main line, a plan of the location of the line shall be submitted to the City for approval. The plan shall show the size and location of the proposed line and its relation to existing lines in the immediate area. All new lines shall be laid out in such a manner as to form a network of loops allowing any part of them to be served from either direction. In no event shall dead-end lines be allowed.

90.21 CONSTRUCTION OUTSIDE CITY LIMITS. All extensions of the water system to premises outside the City limits shall be of Type K copper tubing, cement lined cast iron pipe or ASTN Type 1, Grade 1, Class 160 PVC pipe.

[The next page is 301]

CHAPTER 91

WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems; Exception

91.04 Location of Meters

91.05 Meter Setting

91.06 Meter Costs

91.07 Meter Repairs

91.08 Right of Entry

91.09 Meter Testing

91.10 Irrigation Meters

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

91.02 WATER USE METERED. All water furnished City customers shall be measured through meters furnished by the City and installed by the owner. Customers located outside the City limits shall purchase meters from the City and such meters shall be installed by the City.

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

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

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

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

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

91.08 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter. If resident and/or land owner does not comply within 30 days of first notice, a \$50.00 fee could be assessed to monthly bill and/or assessed to property taxes when necessary.

91.09 METER TESTING. The Superintendent or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of five percent or more, the cost of the test shall be paid by the City and

a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than five percent of the total water bill and not for a longer period than three months. If the meter is found to be accurate or slow or less than five percent fast, the user shall pay a testing charge of \$25.00.

91.10 IRRIGATION METERS. A separate additional meter may be installed for the purpose of measuring water usage outside a residence or business when such water is used in a manner that it does not enter the City's sanitary sewer system. The owner must purchase the extra meter and remote reading equipment at the current costs from the City and pay for its installation. Installation shall be according to the Superintendent's directives. The City shall retain ownership of the meter and shall have the right to inspect said meter from time to time with appointment, to insure property installation and operation and police for any potential for bypassing of any meter used for inside use. A monthly fee and the standard rates for water usage for the residence or business will be charged, excluding any sewer user fees. All provisions regarding exterior remote reading equipment shall apply.

[The next page is 307]

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 Customer Deposits
92.10 Customer Requested Account Suspension

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

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Basic Service Charge. \$28.25 per month (minimum bill)
2. Usage Charge. \$8.00 per 1,000 gallons.

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates 150 percent of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 and 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month or first business day after.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the 15th day of the each month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of \$20.00 shall be added to each delinquent bill.
4. Returned Check Service Charge. A \$30.00 service charge will be charged on all checks returned by financial institutions.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, a Council member shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Council member's decision to the Council, and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.
4. Fees. A fee of \$25.00 shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property. Reconnections will be made only during operating business hours.

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

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

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

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

4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

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

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer, not the owner of the premises served, a \$100.00 deposit intended to guarantee the payment of bills for service. The deposit is returned to the customer upon moving outside the City limits.

(Code of Iowa, Sec. 384.84)

92.10 CUSTOMER REQUESTED ACCOUNT SUSPENSION. Customers wishing to have their water account suspended (shut-off) for any period of time are subject to a shut-off fee of \$25.00 for shutting the water off at the curb valve. During a period when service is temporarily discontinued as provided herein there shall be no minimum water service charge, but will be charged for sanitary sewer fees and storm water fees. The customer will not be charged a separate re-connect fee when service is re-established.

[The next page is 325]

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

95.10 Abandoned Sewer Lines

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and one-half meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "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 that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters 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 that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. "Storm drain" or "storm sewer" means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
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 that 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 that is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. **Surface Run-Off or Groundwater.** Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. **Manholes.** Open or enter any manhole of the sewer system, except by authority of the 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 60 days after date of official notice from the City to do so provided that said public sewer is located within 100 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(567 IAC 69.1[3])

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

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

95.07 RIGHT OF ENTRY. The 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.

95.10 ABANDONED SEWER LINES. When an existing sanitary sewer service is abandoned or a service is renewed with a new connection in the main, all abandoned connections with the mains shall be capped off and made absolutely watertight.

[The next page is 333]

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee and Connection Charge

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the following information:

1. The location and description of the property to be connected with the sewer system.
2. The purpose for which the sewer is to be used.
3. Plans, specifications, or other information considered pertinent.

The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 60 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount \$25.00 to the Clerk to cover the costs of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of: \$200.00 for residential uses, \$500.00 for commercial and industrial uses, to reimburse the City for costs borne by the City in making sewer service available to the property served..

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

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

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the 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 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.
5. **Size.** Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.
6. **Alignment and Grade.** All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth inch per foot.
 - B. Minimum grade of one-eighth inch per foot.
 - C. Minimum velocity of two feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the 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 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 inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge, and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand, or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground 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, from the main to the building served, shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

[The next page is 341]

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Stormwater

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Special Facilities

97.05 Control Manholes

97.06 Testing of Wastes

97.01 STORMWATER. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers 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, place, throw, dump, empty or deposit into the municipal sewage system any of the following:

1. Any liquid, solid, or gases which may cause fire or explosion either alone or in combination with other substances, or any waste streams with a closed-cup flashpoint of less than 140°F using the methods in 40 CFR 262.21.
2. Solid or viscous substances which may cause obstruction to the flow in the sewer or other interference with the operation of the treatment facility.
3. Any wastewater which has a pH less than 6.0 or higher than 10.
4. Any wastewater containing anything in liquid, solid, or vapor form, in sufficient quantity, either singly or in combination, to inhibit or interfere with any wastewater treatment or bio-solids disposal process, constitute a hazard to humans or animals, create toxic gases, vapors, or fumes than may cause acute worker health or safety problems, create a toxic effect in the receiving stream, or by “pass through” exceed any standard set by the Iowa Department of Natural Resources or the U.S. Environmental Protection Agency.
5. Any substance which either singly or in combination is sufficient to create a public nuisance or hazard to life or interferes with the possible reclamation or reuse of the wastewater or bio-solids.
6. Any trucked or hauled pollutants, except at discharge points designated by the City when delivered by licensed haulers.
7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

8. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW exceeds 40°C (104°F).
9. Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or concentration which will cause interference with the POTW.
10. Any wastewater which the Director of the Water and Pollution Control Department determines to be unacceptable based on a case-by-case analysis.

97.04 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 City of Ames and subject to the requirements of 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.

97.05 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, valves, and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of 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.

97.06 TESTING OF WASTES. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods of the Examination of Water and Wastewater* published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event 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 utility customers 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, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

[The next page is 347]

CHAPTER 98
ON-SITE WASTEWATER SYSTEMS

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

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

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(567 IAC 69.1[3])

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

(567 IAC 69.1[3 and 4])

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

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(567 IAC 69.1[3])

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

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

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

[The next page is 353]

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Definitions

99.02 Sewer Service Charges

99.03 Special Rates

99.04 Private Water Systems

99.05 Payment of Bills

99.06 Lien for Nonpayment

99.07 Special Agreements Permitted

99.08 Utility Record Keeping

99.01 DEFINITIONS. For use in this chapter, the following user classes are defined:

1. "Residential unit" is defined as one of the following:
 - A. A private single-family house;
 - B. Each separate living area of a duplex;
 - C. Each apartment in a house or apartment building.
2. "Commercial unit" is defined as one business venture which occupies part of or an entire business building, premises, etc.
3. "Agricultural unit" is defined as land upon which a farming operation is conducted and which does not include a residential unit. If purchased water is used solely for the consumption by livestock and is not thereafter discharged into the sanitary sewer, there shall be a separate water meter where water is purchased in order for this definition to apply.

99.02 SEWER SERVICE CHARGES. Each customer shall pay a sewer service charge for the use of, and for the service supplied by, the system in accordance with the following:

1. Each residential unit and each commercial unit shall pay a service charge of \$28.70 per month, whether actually discharging into the system or not, plus a rate of \$7.58 for each 1,000 gallons of water used per month.
2. The service charge and use rate contained herein shall not apply to an agricultural unit as defined in Section 99.01.

In no case shall the minimum service charge be less than \$28.70 per month, which is necessary to retire the indebtedness, support the operation and maintenance of the system, and provide the reserve necessary for maintaining the sanitary sewer facility.

99.03 SPECIAL RATES. Where, in the judgment of the Mayor and the Council, special conditions exist to the extent that the application of the sewer use charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Mayor and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer use 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 use charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

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

(Code of Iowa, Sec. 384.84[1])

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

99.08 UTILITY RECORD KEEPING.

1. The City will maintain the proportional distribution of operation, maintenance, and replacement (OM&R) costs among users and user classes.
2. The City will apply excess revenues collected from a class of users to the costs of OM&R attributable to that class for the next year and adjust the rates accordingly.
3. The OM&R portion of the total sewer use charge shall be deposited in a non-lapsing fund and the revenues so deposited will be used only for the purposes of defraying the OM&R costs of the treatment works. Funds transferred from other revenue sources to meet temporary shortages in the OM&R accounts shall be refunded following an appropriate adjustment in the user charge for OM&R. The fund will have a minimum of two primary accounts:
 - A. An O&M account with provision for carry-over of the fiscal year end balance to meet the overall O&M costs in the subsequent fiscal year.
 - B. A replacement account which accrues funds through deposits made at least annually from OM&R user charge revenues. The deposits shall provide adequate revenues to meet the replacement needs of the treatment works over its service life and shall be used for no other purpose. Fiscal year-end balances in the replacement account will be carried over to the same account in the subsequent fiscal year.

[The next page is 359]

CHAPTER 100

INDUSTRIAL PRETREATMENT REQUIREMENTS

100.01 Industrial Discharges

100.02 Ames Program

100.03 United States EPA Regulations

100.04 Purpose of Regulation

100.05 Customer Responsible for Costs of Regulation

100.06 Customer Responsible for Operation and

Maintenance Costs

100.07 Expansion Restricted

100.08 Permit Required

100.09 Violation

100.01 INDUSTRIAL DISCHARGES. All discharges of wastewater, gases or solids which are not similar to domestic sewage shall meet the pretreatment requirements set forth in this chapter.

100.02 AMES PROGRAM. The City of Ames Non-Domestic Waste Pretreatment Program, as adopted and amended from time to time by Council resolution, is hereby adopted.

100.03 UNITED STATES EPA REGULATIONS. The City collects and transports sewage within the City to Ames for treatment pursuant to a contract with the City of Ames. This section adopts by reference the following sections of the *General Pretreatment Regulations for Existing and New Sources of Pollution* promulgated by the United States Environmental Protection Agency, 40 *Code of Federal Regulation*, Chapter 1, Part 403 as published through July 1, 1989, as amended on October 17, 1989, and July 24, 1990, as the City pretreatment regulations. These sections include 403.2, 403.3, 403.4, 403.5, 403.6, 403.7, 403.8, 403.12, 403.15, 403.16 and 403.17.

1. This section adopts by reference the categorical pretreatment standards set out in 40 CFR 405-471.
2. This section adopts by reference the testing procedures for wastewater analysis set out in 40 CFR 136.
3. This section adopts by reference sections 307(b) and (c) and 402 (b)(8) of the Federal Water/Pollution Control Act as amended through July 1, 1990.

100.04 PURPOSE OF REGULATION. Any industrial, commercial or other utility customer which discharges any wastewater, industrial waste, or other waste to the municipal sanitary sewer system shall comply with all regulations or requirements of the Iowa Department of Natural Resources and the United States Environmental Protection Agency. Where regulations have not been set by those agencies, the Director of Water and Pollution Control shall establish pretreatment requirements to obtain the following objectives:

1. To prevent the introduction of pollutants which will either interfere with the treatment plant operation or contaminate the resulting bio-solids;
2. To prevent the introduction of pollutants which will pass through the system, inadequately treated, into the receiving waters or the atmosphere or otherwise be incompatible with the system; and
3. To improve the opportunity to recycle and reclaim wastewaters and bio-solids from the system.

100.05 CUSTOMER RESPONSIBLE FOR COSTS OF REGULATION. Any costs for pretreatment flow measuring, monitoring facilities, analytical systems or tests to meet the pretreatment regulations shall be the responsibility of the customer.

100.06 CUSTOMER RESPONSIBLE FOR OPERATION AND MAINTENANCE COSTS. Any cost to the City, including increased operation or maintenance expenditures or fines levied by State or federal agencies or imposed by the City of Ames which result from the discharge from any utility customer, shall be assessed to that customer. In the event more than one utility customer is responsible, the cost shall be prorated among those responsible.

100.07 EXPANSION RESTRICTED. No utility customer may expand its process or operation if that expansion results in a discharge which exceeds any limitation established for such discharge or results in the discharge of some other substance which will violate any provision of the pretreatment regulations unless said customer's plans for expansion are approved by the Director of Water and Pollution Control at least six months prior to the planned expansion.

100.08 PERMIT REQUIRED. All users who are significant or minor non-domestic waste contributors as defined in the revised Ames Non-Domestic Waste Pretreatment Program are required to obtain a permit from the City pursuant to said program before discharging non-domestic wastewaters.

100.09 VIOLATION. Failure to meet the standards and requirements of this chapter shall be a municipal infraction punishable pursuant to Chapter 3 of this Code of Ordinances. Each occurrence of prohibited discharge is a violation and violations continuing for more than one day constitute new violations each day they continue.

[The next page is 365]

CHAPTER 101

STORMWATER UTILITY

101.01 Purpose

101.02 Definitions

101.03 Stormwater Drainage System District
Established

101.04 Charges and Fees in General

101.05 Stormwater Utility User Charge

101.06 Payment of Bills

101.07 Lien for Nonpayment

101.01 PURPOSE. The purpose of this chapter is to establish a Stormwater Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities, including but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

101.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system. A property, whether unimproved or containing impervious surface, is presumed to discharge storm water to the storm and surface water drainage system, and to generate a demand for storm and surface water drainage services.
2. "Occupant" means the person residing or doing business on the property. In a family household situation, the occupants responsible for the obligations herein imposed are the adult heads of the household, jointly and severally. In a dwelling or office sharing situation, the adult occupant legally responsible for the management or condition of the property is responsible.
3. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water comprising the total publicly owned storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.
4. "User" means any person who uses property that maintains connection to, discharges to the storm and surface water drainage system, or otherwise receives services from the City for stormwater management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

101.03 STORMWATER DRAINAGE SYSTEM DISTRICT ESTABLISHED. Pursuant to the authority of Section 384.84(5) of the *Code of Iowa*, the entire City is hereby declared a Stormwater Drainage System District for the purpose of establishing, imposing, adjusting and providing for the collection rates for the operation and maintenance of stormwater management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Stormwater Drainage System District.

(Code of Iowa, Sec. 384.84[5])

101.04 CHARGES AND FEES IN GENERAL. The Council may adopt by ordinance the charges, rates, and fees for the use of the City’s storm and surface water drainage system, and for services provided by the City relating to that system. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City’s system, the costs of bond repayment, regulation, administration, and services of the City’s storm and surface water drainage system, and for services of the City.

101.05 STORMWATER UTILITY USER CHARGE. Each user shall pay a monthly user charge for the operation and maintenance of the storm and surface water drainage system service provided by the City based on the primary purpose of such user’s property. The following fees shall be charged to each user:

Residential Dwelling	\$13.50
Commercial	\$13.50
Educational	\$13.50
Governmental	\$13.50
Religious/Non-profit	\$13.50
Industrial	\$13.50
Undeveloped Property (per user)	\$13.50

If a user occupies several parcels of undeveloped property, such user shall only be required to pay a total fee of \$13.50 monthly for all such undeveloped parcels.

101.06 PAYMENT OF BILLS. All Stormwater Drainage System District 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. All City services may be discontinued in accordance with the provisions contained in Section 92.05 if the 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.

(Code of Iowa, Sec. 384.84[2b and 2d])

101.07 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 charges for the operation and maintenance of the storm water management facilities. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84[3a])

[The next page is 381]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose

105.02 Definitions

105.03 Sanitary Disposal Required

105.04 Health and Fire Hazard

105.05 Open Burning Restricted

105.06 Separation of Yard Waste Required

105.07 Littering Prohibited

105.08 Toxic and Hazardous Waste

105.09 Waste Storage Containers

105.10 Prohibited Practices

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.

2. “Discard” means to place, cause to be placed, throw, deposit, or drop.

(Code of Iowa, Sec. 455B.361[1])

3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.

4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(567 IAC 100.2)

5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

(567 IAC 20.2)

6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.

(Code of Iowa, Sec. 455B.361[2])

7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating, or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste, and sewage treatment waste in dry or semisolid form.

(567 IAC 100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.

(567 IAC 20.2)

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(567 IAC 100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(567 IAC 100.2)

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

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

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

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

15. “Toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

16. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30 days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause, or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(567 IAC 23.2 and 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.

(567 IAC 23.2[3]“a”)

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.

(567 IAC 23.2[3]“b”)

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.

(567 IAC 23.2[3]“c”)

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth 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.

(567 IAC 23.2[3]“d”)

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(567 IAC 23.2[3]“e”)

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

(567 IAC 23.2[3]“g”)

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.

(567 IAC 23.2[3]“j”)

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.

(567 IAC 23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or hauled to the yard waste disposal site.

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

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

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources.

(567 IAC 100.2)

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

105.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
 - B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed 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.

105.10 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

[The next page is 391]

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

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be by private contract with collectors.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(567 IAC 104.9)

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste 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 that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

[The next page is 407]

CHAPTER 110

ELECTRIC FRANCHISE

110.01 Franchise Granted	110.06 System Requirements
110.02 Construction; Maintenance; Indemnification	110.07 Nonexclusive
110.03 Excavations	110.08 Continuous Service
110.04 Construction and Maintenance	110.09 Term of Franchise
110.05 Meters	110.10 Entire Agreement

110.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of 25 years; † also the right to eminent domain as provided in Section 364.2 of the *Code of Iowa*.

110.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

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

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such 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 existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable

† **EDITOR’S NOTE:** Ordinance No. 07-0156, adopting an electric franchise for the City, was passed and adopted on November 13, 2007.

alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable costs of relocating the same are paid to the Company.

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

110.06 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern and up-to-date condition.

110.07 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

110.08 CONTINUOUS SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from so doing 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.

110.09 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after its acceptance by the Company.

110.10 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

[The next page is 413]

CHAPTER 111

CEMETERY

111.01 Definition
111.02 Trusteeship
111.03 Cemetery Committee
111.04 Cemetery Superintendent

111.05 Records
111.06 Sale of Interment Rights
111.07 Perpetual Care
111.08 Rules and Regulations

111.01 DEFINITION. The term “cemetery” means the Kelley Community 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)

111.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the 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)

111.03 CEMETERY COMMITTEE. The Mayor shall appoint, subject to Council approval, a Cemetery Committee which shall operate the cemetery in accordance with the rules and regulations therefor. The Committee shall consist of five members who shall serve for overlapping three-year terms. The Mayor may appoint persons to fill vacant unexpired terms, subject to Council approval. The Cemetery Committee shall monitor and supervise the Cemetery Superintendent and shall propose to the Council amendments, revisions or modifications to the cemetery rules and regulations.

111.04 CEMETERY SUPERINTENDENT. The Cemetery Superintendent shall be appointed by the Cemetery Committee. The duties of the Cemetery Superintendent are as follows:

1. Supervise the cemetery generally and make recommendations to the Cemetery Committee concerning the operation, maintenance and improvement of the cemetery.
2. Supervise all work performed in the cemetery.
3. Monitor and supervise the opening and closing of all graves in accordance with instructions received from proper authorities and personally attend all interments and disinterments or delegate that authority.
4. Monitor, supervise, and control the installation of all foundations and determine the position of monuments, markers and memorials to insure conformity with the cemetery rules and regulations.
5. Enforce the rules and regulations of the cemetery as adopted by the Cemetery Committee.
6. Assist the Clerk in maintaining accurate records of all burials in the cemetery pursuant to the cemetery rules and regulations.
7. Perform such other duties as may be assigned from time to time by the Council or by the Cemetery Committee.

111.05 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.

111.06 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)

111.07 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, and 523I.508)

111.08 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for

interment of the spouse of the veteran if such a 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 a space is available.

(Code of Iowa, Sec. 523I.304)

[The next page is 431]

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 retail alcohol license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122, and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a retail alcohol license, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

(Code of Iowa, Sec. 123.49[2b])

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel

or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

(Code of Iowa, Sec. 142D.2[1])

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

(Code of Iowa, Sec. 142D.2[17])

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Iowa Department of Revenue.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class "B" retail alcohol license or an establishment employee when employed in compliance with State law.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a retail alcohol license, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa

Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

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

[The next page is 439]

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, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

[The next page is 457]

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 | 135.14 Subsurface Drainage |

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the 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 that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Fee. A permit fee of \$25.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the Business District it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

135.13 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.

135.14 SUBSURFACE DRAINAGE.

1. Existing Drainage Systems. The discharge of groundwater from subsurface drainage systems and sump pits onto the surface of the public right-of-way may create conditions which endanger the public safety and health and is declared to be a public nuisance. If the Council determines that groundwater being discharged onto the surface of the public right-of-way from a subsurface drainage system or sump pit on a particular property is creating a nuisance, such nuisance shall be abated according to Chapter 50 of this Code of Ordinances.
2. Future Drainage Systems. All subsurface drainage systems and sump pits hereafter constructed or reconstructed for the purpose of collecting groundwater under or in the immediate vicinity of any building shall be in accordance with the following:
 - A. The groundwater so collected shall not be discharged either directly or indirectly onto the surface of any public right-of-way.
 - B. The groundwater so collected shall be discharged only into the storm water drainage system of the City, if the pipe carrying the discharge can be connected to the storm water drainage system at a point within 50 feet of the perimeter boundary of the affected property. The installation of the discharge pipe shall comply with the specifications of the City.
3. Extension of Collector System. If the storm water drainage system of the City is hereafter extended to within 50 feet of the perimeter boundary of a property, no groundwater shall thereafter be discharged from an existing subsurface drainage system or sump pit on the property except through a pipe connected to and discharging into the extended storm water drainage system.

[The next page is 465]

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 a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. 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.

(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 and e])

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least 40 inches wide and four inches thick, and each section shall be no more than four feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
 - C. Driveway areas shall be not less than six inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot outside the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. 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 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 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 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.

[The next page is 473]

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.
(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.
(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.
(Code of Iowa, Sec. 174.15[2] and 364.7[3])

o o o o o o o o o o

CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Kelley, 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.

[The next page is 493]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to 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 months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF KELLEY, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

[The next page is 501]

CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

146.04 Additional Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 and 414.28)

146.04 ADDITIONAL REQUIREMENTS. A mobile home, modular home, or manufactured home built in years that predate the establishment of State guidelines that regulate foundation requirement, will not be allowed to locate within the City limits, unless within the confines of a mobile home park. In addition, no mobile, modular, or manufactured home will be approved for conversion to real property unless the structure has a multi-sectional design. All single-sectional design mobile, modular, or manufactured home structures will be restricted to placement within a designated mobile home park.

All mobile homes, modular homes, or manufactured homes placed prior to the passage of this Code will be exempt from this section, but will be subject to code in the event that the structure is moved. In the event that a nonconforming structure (that was in place prior to the passage of this Code) suffers damage that requires the structure's replacement, Section 165.18(3), will guide restrictions upon that replacement structure. All out guidelines regarding mobile, modular, or manufactured homes that only legally conform to this Code due to being placed prior to the passage of 146.04, will also be guided by Section 165.18.

[The next page is 507]

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three and one-half inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

o o o o o o o o o o

CHAPTER 151

FENCES

151.01 Types of Fences
151.02 Location and Height
151.03 Exterior Finish
151.04 Safety Hazards
151.05 Permit Required

151.06 Application to Existing Fences
151.07 Electric Fences
151.08 Barbed Wire Fencing
151.09 Swimming Pools

151.01 TYPES OF FENCES. These standards apply to walls, fences, hedges, and other structures used to enclose, divide, or separate parcels or areas of real estate, regardless of their construction or the transparency or opacity thereof.

151.02 LOCATION AND HEIGHT. No structures described in Section 151.01 shall exceed the maximum height from the ground surface upward established as follows for each zoning district:

1. Residential and Commercial.
 - A. Front Yards. Four feet in height; set back from property line one-half foot.
 - B. Side Yards. Four feet in height from the front boundary line to the building line, and eight feet in height for the remaining side yard; set back from property line is one-half foot or on the property line with the consent of adjoining property owners.
 - C. Rear Yards. Eight feet in height; set back from property line is one-half foot or on the property line with the consent of adjoining property owners.
2. Industrial.
 - A. Front Yards. Four feet in height; set back from property line is one-half foot.
 - B. Side Yards. Four feet in height from the front boundary line to the building line, and eight feet in height for the remaining side yard; set back from property line is one-half foot or on the property line with the consent of adjoining property owners.
 - C. Rear Yards. Eight feet in height; set back from property line is one-half foot or on the property line with the consent of adjoining property owners.
3. Agricultural.
 - A. Street or Road Frontage. Four feet in height, may be placed on the property line. Set back from property line is not required.
 - B. Other Locations. Any height is allowed so long as those traveling public ways do not have vision limitations so as to create a safety hazard.

151.03 EXTERIOR FINISH. All fences must be installed with the smooth side or most finished side facing out towards the adjacent property.

151.04 SAFETY HAZARDS. It is unlawful for any person to erect, install or maintain a fence which obscures clear view of traffic at intersections or driveways or which creates a safety hazard to pedestrians or vehicular traffic.

151.05 PERMIT REQUIRED. It is unlawful for any person to install, erect, construct, relocate or alter a fence within the City without first obtaining a permit therefor from the Zoning Administrator. No permit shall be issued if the Zoning Administrator determines that the proposed fence does not meet any of the requirements of this chapter. A sketch or design of the proposed fence, including a description of materials to be used and specification of height, shall be submitted with the application for a permit.

151.06 APPLICATION TO EXISTING FENCES. This chapter does not apply to fences in existence before the effective date of the ordinance from which this chapter derives,[†] except that on sale or transfer of the property upon which a nonconforming fence is located, such fence shall be made to conform to the requirements of this chapter or shall be removed within 30 days of closing or transfer.

151.07 ELECTRIC FENCES. It is unlawful for any person to erect, install or maintain any electrically charged fence within the City, except that the Building Official may issue a permit for an electrically charged fence to retain animals upon proof that the fence will not be hazardous to life.

151.08 BARBED WIRE FENCING. For the purposes of this chapter, barbed wire includes concertina wire, razor wire or any similar material. It is unlawful for any person to install, erect, construct or maintain any barbed wire fencing within the City, except for the following exceptions:

1. Not more than three courses of barbed wire may be installed above the top line of a six-foot tall chain link fence located in a district zoned for industrial or commercial purposes or on property used for industrial or commercial purposes under a valid nonconforming use.
2. Barbed wire may only be used in the following zoning districts, I-1, I-2, C-2, and A with a special exception. Barbed wire fences which comply with State statutes may be erected, constructed and maintained on premises zoned for agricultural uses.
3. Regardless of the zoning district, no barbed wire may be used in locations that are visible to a residential zoned property or within 20 feet of a public road, except with a special exception permit.

151.09 SWIMMING POOLS.

1. Definitions.
 - A. "Above-ground pool" is a pool that is erected above the earth's surface and is often temporary.

[†] **EDITOR'S NOTE:** Ordinance No. 03-0139, concerning fences, walls and pool enclosures, was adopted by the Council on July 8, 2003.

- B. "In-ground pool" is a pool that is permanently affixed below the earth's surface.
 - C. "Indoor pool" means a pool completely enclosed within the exterior walls and completely covered by the roof of a residential or recreational structure.
2. Requirements of Safety Measures.
- A. All in-ground pools shall be completely surrounded by a fence or wall not less than four feet in height, with no gaps larger than four inches. The house or accessory building may be considered part of the fence or wall. When not in use the gate or door must be latched or securely closed.
 - B. All above-ground pools must provide reasonable measures of safety when pool is not in use.

[The next page is 517]

CHAPTER 152

RESIDENTIAL CODE

152.01 Adoption of Residential Code
152.02 Sections Revised

152.03 Conflicts
152.04 Preservation of Rights

152.01 ADOPTION OF RESIDENTIAL CODE. That certain document, one copy of which is on file in the office of the Clerk, being marked and designated as the *International Residential Code*, 2006 edition, as published by the International Code Council, is hereby adopted as the residential code of the City, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; and for providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the City are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions, and changes, if any, prescribed in Section 152.02.

152.02 SECTIONS REVISED. The following sections are hereby revised:

1. Section R101.1. Insert: “the City of Kelley.”
2. Section R103.1. Replace the section as it appears in the Residential Code with the following:

R103.1 Enforcement. All references to the “building official” in this code shall mean either the Clerk of the City of Kelley or the building inspector(s) appointed by the Kelley City Council, as appropriate.

3. Section R103.2. Replace the section as it appears in the Residential Code with the following:

R103.2 Appointment. The building official or building officials shall be appointed as provided by the Code of Ordinances of the City of Kelley.

4. Section R103.3. Delete this entire section as it appears in the Residential Code.
5. Section R104.2. Replace the section as it appears in the Residential Code with the following:

After receiving approval from the building inspectors and payment, the Clerk of the City of Kelley shall issue permits for the erection and alteration of buildings and structures. The building inspectors shall inspect the premises for which such permits have been issued and shall enforce compliance with the provisions of this code.

6. Section R105.1. Replace the section as it appears in the Residential Code with the following:

Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is

regulated by this code, or to cause any such work to be done, shall first make application to the Clerk of the City of Kelley, receive approval from the building inspectors, make payment to the Clerk of the City of Kelley, and obtain the required permit.

7. Section R105.2. Strike Subparagraph 2. Permits are required for all fences.
8. Section R105.3. Replace the first sentence of this section as it appears in the Residential Code with the following:

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Clerk of the City of Kelley for that purpose.

9. Table R301.2 (1). Insert:

Ground Snow Load: 30

Wind Speed (mph): 90

Seismic Design Category: A

Subject to Damage From:

Weathering: Severe

Frost line depth: 42 inches

Termite: Moderately heavy

Winter Design Temp: -10 degrees Fahrenheit

Ice Barrier Underlayment: yes/required.

Flood Hazards: no

Air Freezing Index: 2000

Mean Annual Temp: 48 degrees Fahrenheit

10. Section R404.1.2. This section is specifically not adopted; Section R403.1.6 of the *International Residential Code*, 2003 edition, as published by the International Code Council, is hereby adopted.
11. Section P2603.6.1. Insert "60 inches" in two locations.

152.03 CONFLICTS. All other current and future City ordinances or parts of ordinances in conflict herewith are hereby specifically retained and declared to be controlling in case of conflict with the Code adopted under this chapter.

152.04 PRESERVATION OF RIGHTS. Nothing in this chapter or in the Residential Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed under Section 152.03; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

[The next page is 529]

CHAPTER 153

BUILDING CODE

153.01 Adoption of Building Code
153.02 Sections Revised

153.03 Conflicts
153.04 Preservation of Rights

153.01 ADOPTION OF BUILDING CODE. That certain document, one copy of which is on file in the office of the Clerk, being marked and designated as the *International Building Code*, 2006 edition, as published by the International Code Council, is hereby adopted as the Building Code of the City, for regulating and governing the conditions and maintenance of all property, buildings, and structures, by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said Building Code on file in the office of the Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in Section 153.02.

153.02 SECTIONS REVISED. The following sections of the Building Code are hereby revised:

1. Section 101.1. Insert: “the City of Kelley”.
2. Section 103.1. Replace the section as it appears in the Building Code with the following:

103.1 Enforcement. All references to the “building official” in this code shall mean either the Clerk of the City of Kelley or the building inspector(s) appointed by the Kelley City Council, as appropriate.

3. Section 103.2. Replace the section as it appears in the Building Code with the following:

103.2 Appointment. The building official or building officials shall be appointed by the Kelley City Council.

4. Section 103.3. Delete this entire section as it appears in the Building Code.
5. Section 104.2. Replace the section as it appears in the Building Code with the following:

104.2 Applications and Permits. After receiving approval from the building inspectors and payment, the Clerk of the City of Kelley shall issue permits for the erection, alteration, demolition and moving of buildings and structures. The building inspectors shall inspect the premises for which such permits have been issued and shall enforce compliance with the provisions of this code.

6. Section 105.1. Replace the section as it appears in the Building Code with the following:

1.05.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building

or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Clerk of the City of Kelley, receive approval from the building inspectors, make payment to the Clerk of the City of Kelley, and obtain the required permit.

7. Section 105.2. Strike Subparagraph 2. Permits are required for all fences.
8. Section 1612.3. Insert: "the City of Kelley."
9. Section 1612.3. Insert: "date not applicable."
10. Section 3410.2. Insert: "May 8, 2007."

153.03 CONFLICTS. All other current and future City ordinances or parts of ordinances in conflict herewith are hereby specifically retained and declared to be controlling in case of conflict with the Building Code adopted under this chapter.

153.04 PRESERVATION OF RIGHTS. Nothing in this chapter or in the Residential Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed under Section 153.03; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

[The next page is 545]

CHAPTER 154

PROPERTY MAINTENANCE CODE

154.01 Adoption of Property Maintenance Code
154.02 Sections Revised

154.03 Conflicts
154.04 Preservation of Rights

154.01 ADOPTION OF PROPERTY MAINTENANCE CODE. That certain document, one copy of which is on file in the office of the Clerk of the City of Kelley, County of Story, State of Iowa, being marked and designated as the *International Property Maintenance Code*, 2006 edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the City of Kelley, County of Story, State of Iowa, (hereinafter “Property Maintenance Code”), for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code on file in the office of the Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in Section 154.02.

154.02 SECTIONS REVISED. The following sections are hereby revised:

1. Section 101.1. Insert: “City of Kelley, County of Story, State of Iowa.”
2. Section 103.1. Replace the section as it appears in the Property Maintenance Code with the following:

103.1 General. All references to the “code official” in this code shall mean either the Clerk of the City of Kelley or the building inspector(s) appointed by the Kelley City Council, as appropriate.

3. Section 103.3. Delete this entire section as it appears in the Property Maintenance Code.
4. Section 103.5. Replace the section as it appears in the Property Maintenance Code with the following:

103.5 Fees. The fees for activities and services performed by the code official in carrying out responsibilities under this code shall be as prescribed by action of the Kelley City Council.

5. Section 103.6. Insert: Fees.

Registration fee	\$10.00
Single Family Residence Inspection	\$50.00
Multi Family Structure Inspection	\$50.00 +
	\$30.00 for each unit above one

6. Section 302.4. Insert: “eight inches” as appropriate.
7. Section 303.14. Insert: Dates. “April 1 to October 1.”

8. Section 304.14. Insert: Dates. "April 1 to October 1."
9. Section 602.3. Insert: Dates. "September 1 to April 30."
10. Section 602.4. Insert: Dates. "September 1 to April 30."

154.03 CONFLICTS. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

154.04 PRESERVATION OF RIGHTS. Nothing in this chapter or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 154.03; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this chapter.

[The next page is 561]

CHAPTER 165

ZONING REGULATIONS

165.01 Short Title	165.12 R-3 Multi-Family Residential District
165.02 Purpose	165.13 C-1 Commercial District
165.03 Definitions	165.14 I-1 Industrial District
165.04 Official Zoning Map	165.15 P-1 Public District
165.05 Amendments	165.16 Off-Street Parking and Loading
165.06 General Zoning Regulations	165.17 Administration
165.07 Zoning Districts Established	165.18 Conformance
165.08 A-1 Agricultural District	165.19 Board of Adjustment
165.09 R-E Residential Estate District	165.20 Variances
165.10 R-1 Single-Family Residential District	165.21 Special Use Permits
165.11 R-2 Two-Family Residential District	

165.01 SHORT TITLE. This chapter shall be known and cited as “The Zoning Ordinance of the City of Kelley, Iowa.”

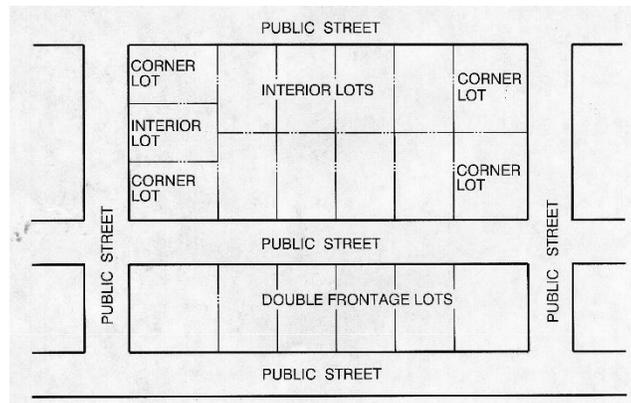
165.02 PURPOSE. The purpose of this chapter is to promote the health, morals, safety and general welfare of the City, pursuant to the police powers of the City, so as to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, and to regulate the use of land in and around the City.

165.03 DEFINITIONS. For the purpose of this chapter, the following words are defined.

1. “Accessory use” or “accessory structure” means a use or structure subordinate to the principal use of a building or land on the same lot or parcel and serving a purpose customarily incidental to the use of the principal building or use of the land.
2. “Agricultural use” means the use of land for growing crops, including farming, pasture, agriculture and horticulture, and the necessary uses for packing, treating or storing the produce, excepting grain storage and drying facilities and the raising of farm animals, including dairying, animal and poultry husbandry, and feed lots.
3. “Alley” means any public way designed to be used as a secondary means of access to the side or rear of abutting property whose principal frontage is on some other public way.
4. “Board” means the Board of Adjustment of the City.
5. “Boarding home” means a building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for not more than three persons.
6. “Building” means any structure having a roof supported by walls or columns designed or built for the enclosure, shelter or housing of persons, animals or property.
7. “Building, height of” means the vertical distance from the average ground level grade of the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the height of the highest gable of a pitch or hip roof.

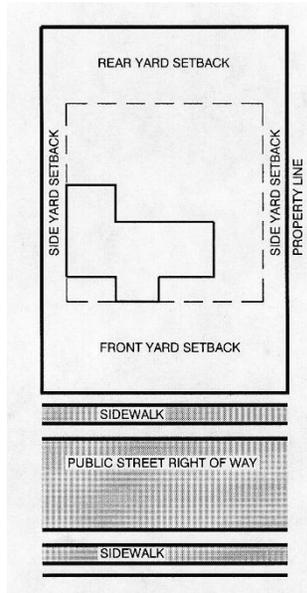
8. “Building line” means the outer boundary of a building established by the location of its exterior roof or walls or any projections other than steps, unenclosed balconies or decks.
9. “Cemetery” means land intended and used for the burial of the human dead, including columbarium, crematories, mausoleums and mortuaries within the boundaries of said cemetery.
10. “Childcare center” means any facility which provides care, supervision or guidance for seven or more children by a person other than the parent, guardian or relative, for periods of two hours or more and less than 24 hours per day per child on a regular basis in a place other than the child’s home or an accredited public or private school.
11. “Clinic, medical or dental” means a building or buildings in which physicians, dentists, or physicians and dentists, and allied professional assistants are associated for the purpose of carrying on their professions.
12. “Comprehensive plan” means a plan intended to guide future growth in the City, consisting of factual base information, determinations of future needs, and goals and objectives, intended to be implemented through the provisions of this chapter and other ordinances of the City; prepared by the Planning and Zoning Commission and adopted by the Council in accordance with Chapter 414 of the *Code of Iowa*.
13. “District” means a geographical portion of the City, within which certain provisions of this chapter are uniformly applied.
14. “Dwelling” means any building or portion thereof which is designed for and used exclusively for residential purposes, but not including a tent, cabin, trailer, mobile home, motor home, boarding house or recreational vehicle.
15. “Dwelling, single-family” means a dwelling designed for and occupied exclusively by one family.
16. “Dwelling, two-family” means a dwelling designed for and occupied by two families only, with separate housekeeping and cooking facilities for each family.
17. “Dwelling, multi-family” means a dwelling designed for and occupied by three or more families, with separate housekeeping and cooking facilities for each family.
18. “Family” means one or more persons related by blood, marriage, adoption or legal guardianship occupying a dwelling unit and living as a single household or housekeeping unit, or a group of not more than three persons unrelated by blood, marriage, adoption, or legal guardianship living as a single household or housekeeping unit.
19. “Family home” means a community-based residential home licensed as a residential care facility under Chapter 135C of the *Code of Iowa* or as a child foster care facility under Chapter 237 of the *Code of Iowa* to provide room and board, personal care, habitation services, and supervision in a family environment exclusively for not more than 8 persons with a development disability or brain injury and any necessary support personnel. “Group home” does not include individual foster care family homes licensed under Chapter 237 of the *Code of Iowa*.
20. “Frontage” means all the property on one side of a street between two lot lines intersecting the street measured along the line of the street.

- 21. “Garage, private” means an accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles to be stored may be a commercial vehicle of not more than two-ton capacity.
- 22. “Home occupation” means a professional or business activity which results in a product or service and is carried out or conducted for gain by the resident as an accessory use on the resident’s premises.
- 23. “Loading space” means a space within the main building or on the same lot providing for the standing, loading or unloading of merchandise or material from commercial vehicles.
- 24. “Lot” means a parcel of land occupied or intended for occupancy by one main building, together with its accessory buildings, officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.
- 25. “Lot, corner” means a lot abutting upon two or more streets at their intersection.
- 26. “Lot, depth of” means the horizontal line between the front lot line and the rear lot line.
- 27. “Lot, double frontage” means a lot abutting upon two streets between the front and rear lot lines.
- 28. “Lot, interior” means any lot other than a corner or double frontage lot.
- 29. “Lot width” means the width of a lot measured at the building line and at right angles to its depth.
- 30.



- 31. “Parking space” means a granular or paved surfaced area, maintained in a dust-free manner, enclosed in the main building or in an accessory building, or unenclosed, permanently reserved for the temporary storage of one vehicle connected to a street by a surfaced driveway which affords satisfactory ingress and egress for vehicles.
- 32. “Principal use” means the main use of land or structure as distinguished from an accessory use.

33. “Setback line” means the minimum distance required between a building line and the front, side or rear property line of the lot on which the building is located.



34. “Story” means the portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and ceiling next above it.

35. “Story, half” means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

36. “Street” means a public or private thoroughfare, which affords the principal means of access to abutting property.

37. “Structural alterations” means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, beyond ordinary repairs and maintenance.

38. “Structure” means anything constructed or erected, the use of which requires more or less permanent location on the ground, including but not limited to buildings, walls, fences, signs and billboards.

39. “Yard” means an open space on the same lot with a building and unobstructed by a portion of a structure from the ground upward, except as otherwise provided herein.

40. “Yard, front” means a yard extending across the side of the lot facing the street and being the minimum horizontal distance between the lot line on that side and the setback. Corner lots shall have two front yards.

41. “Yard, rear” means a yard extending across the side of the lot opposite the street and being the horizontal distance between the lot line on that side and the rear setback. On all lots the rear yard shall be in the rear of the front yard.

42. “Yard, side” means a yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building.
43. “Zoning Administrator” means the zoning administrator as appointed by the Council.
44. “Zoning map” means the official zoning map of the City, adopted by the provisions of this chapter together with all amendments thereto subsequently added.

165.04 OFFICIAL ZONING MAP. As shown by the Official Zoning Map, the City is divided into the classes of districts described in Section 165.07. The boundaries of those districts, as shown on the Official Zoning Map, are hereby established and all references and information shown thereon are hereby made a part of this chapter by reference. The Official Zoning Map shall be on file in the office of the Clerk and shall be final authority as to the current zoning status of the land, water areas, buildings and other structures in the City.

1. Changes in Map. Any amendments, supplements, modifications, or other changes to the boundaries of the districts described in this chapter and as shown on the Official Zoning Map shall be made only by an ordinance amending the Zoning Ordinance, and pursuant to State law concerning notice, public hearings and other requirements.[†]
2. Interpretation of Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.
 - A. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines.
 - B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - C. Boundaries indicated as approximately following City limits shall be construed as following City limit lines.
 - D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks; boundaries indicated as following railroad right-of-way lines shall be construed as following such right-of-way lines.
 - E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through F herein shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

165.05 AMENDMENTS.

1. Authorization. The Council may, from time to time, on its own initiative, on petition, or on recommendation of the Planning and Zoning Commission, after public notice and hearings provided by law, and after a report by the Planning and Zoning Commission, or after 30 days’ written notice to said Commission, amend, supplement or change the regulations, districts or Official Zoning Map herein or subsequently established.

[†] **EDITOR’S NOTE:** See EDITOR’S NOTE at the end of this chapter for ordinances amending the zoning map.

2. Petition. Whenever the owners of 50 percent or more of the area of the lots in any district or part thereof desire amendment, supplement or change in any of the provisions of this chapter applicable to such area, they may file an application with the Clerk requesting Council to make such amendment, supplement or change.
3. Application. An application shall be transmitted immediately to the Planning and Zoning Commission for an investigation and report. The Planning and Zoning Commission shall file its recommendations approving, disapproving or modifying the proposed amendment, supplement or change with the Council within 90 days thereafter. The application shall include the following:
 - A. The legal description and local address of the property.
 - B. The present zoning classification and the zoning classification requested for the property.
 - C. The existing used and proposed use of the property.
 - D. The names and addresses of the owners of record in the Office of the County Recorder and Auditor of Story County, Iowa, of all property within 200 feet of the property for which the change is requested.
 - E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
 - F. A plan showing the locations, dimensions and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads and other physical features.
 - G. Before any action is taken upon an application as provided in this chapter, the applicant shall pay the City the sum of \$500.00 to cover the approximate costs of the procedure and the applicant shall forthwith pay this amount to the credit and the General Revenue Fund of the City. The failure to approve the change shall not be construed as a reason for refunding the fee to the applicant.
4. Protest. If a written protest against any proposed amendment, supplement or change has been filed with the Clerk, signed by the owners of 20 percent or more of the area of the lots included in the proposed amendment, supplement or change, or by the owners of 20 percent or more of the property that is located within 200 feet of the exterior boundaries of the property for which the amendment, supplement or change is proposed, such amendment, supplement or change shall not become effective except by favorable vote of at least 3/4 of all members of the Council.
5. Limitation. Whenever a petition requesting an amendment, supplement or change of any regulation prescribed by this chapter has been denied by the Council, such petition cannot be renewed for one year thereafter unless it is signed by the owners of at least 50 percent of the property owners who previously objected to the change. This provision, however, shall not prevent Council from acting on its own initiative in any case or at any time as provided in this section.
6. Processing. Rezoning proposals referred by the Council to the Planning and Zoning Commission shall be acted upon and returned to the Council not more than 90 days thereafter unless time extensions are specifically requested by the applicant. Failure of the Planning and Zoning Commission to render a decision within the time specified will be deemed approval of the application as submitted.

165.06 GENERAL ZONING REGULATIONS.

1. Regulations Uniformly Applied. The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure or land; and particularly, as hereinafter provided.
2. Conformity Required. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
3. Height, Density, and Yards. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of the lot area, or to have narrower or smaller rear yards, front yards, side yards or other open spaces, than herein required, or in any other manner contrary to the provisions of this chapter.
4. Separate Yards, Open Space, Off-Street Parking Required. No part of a yard or other open space, or off-street parking, or loading space required in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.
5. Minimum Yards; Lot Areas. No yard or lot existing at the time of the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
6. Buildings and Structures.
 - A. Not more than two buildings shall be permitted on any lot, tract or parcel of land until the same has been platted in accordance with the laws of the State of Iowa, and no principal building shall be permitted on any lot formed by the process of dividing a lot of record or putting together pieces or parts of platted lots of record except pursuant to a special use permit issued by the Zoning Board of Adjustment after notice mailed to all owners and occupants of land within 200 feet of the site, hearing, and finding that issuance of the permit will not contribute excessively to any adverse effect on infrastructure, City services, traffic and parking or property values. Special protective conditions may be imposed and the Board shall call for and consider the evaluation and opinions of the City's professional staff in making its decision.
 - B. No building in the rear of any principal building on the same interior lot shall be used for residence purposes, except as may be otherwise specifically provided in this chapter.
 - C. Any lot upon which a principal building is placed shall abut on – and be accessible by means of – a City street or public place with not less than 20 feet of frontage on such street or public place.
 - D. Nothing in this chapter shall prevent the restoration of any wall or other portion of a building declared unsafe by the Zoning Administrator.
7. Home Occupations. The regulations imposed by this section are intended to allow home occupations which by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants and surrounding property, shall not increase congestion in the public streets, and shall not diminish or impair

established property values in surrounding areas. Home occupation use may be granted and shall continue as long as the following conditions are met.

- A. The use shall not be conducted in any building on the premises other than the building which is used by the occupant as the private dwelling or private garage, provided that not more than 50 percent of the total floor area of the private garage is used for the home occupation.
- B. There is no exterior indication of the home occupation (except as permitted in Paragraph E below) or variation from the residential character of the structures.
- C. There is no exterior storage or display of material or products. All materials or products utilized in conjunction with the home occupation must be stored or utilized within a completely enclosed building. Parking spaces needed for the conduct of a home occupation shall be provided off the street, in defined areas which are appropriately designed and surfaced for that purpose, and not located within side or rear yard building setback areas. No more than two vehicles related to the home occupation shall be located on the property at one time. In case of vehicle repair services, only two vehicles shall be located and repaired on the property at one time and shall be located and repaired within a completely enclosed building.
- D. No more than two individuals, in addition to the residents of the dwelling, shall be employed in the conduct of the home occupation.
- E. Only one unlighted interior or exterior business sign, attached to the wall of the residence or garage, shall be permitted. Such sign may not exceed two square feet in area.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference, or other nuisance in violation of nuisance or noise ordinances. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interferences in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.
- G. Delivery of all materials in the home occupation may only take place from 7:00 a.m. to 8:00 p.m.
- H. The above listed characteristics shall not be construed to restrict the sale of garden produce on the premises, provided this exception shall not extend to allow the operation of a commercial greenhouse or nursery or the existence of stands or booths for the display of produce grown on the premises.
- I. Home occupations shall be permitted as special use under the general use regulations of the zoning district. Therefore, a special use permit must first be obtained by application to the Board. The Board may grant such permit if it reasonably concludes from the evidence that the home occupation proposed will meet the standards set out. The Board may, if warranted by the evidence, impose as additional conditions such measures as may be deemed necessary to protect the legitimate use and enjoyment of neighboring properties. Any failure to obtain such permit when required, or to comply with the standards and conditions aforesaid, when issued, shall constitute a violation of this section

and shall furthermore be grounds for revocation of said permit, after notice and hearing by the Board.

J. Home occupations shall be permitted as an accessory use subject to the above requirements. If a written complaint is filed with the Zoning Administrator by a property owner within a radius of 300 feet of the property, a public hearing before the Board shall be required to determine the continuance of the home occupation.

K. Possession of the Home Occupation Permit shall rest with the property owner and not the property, and is non-transferable.

[The next page is 575]

165.07 ZONING DISTRICTS ESTABLISHED. The City is hereby divided into zoning districts designated as follows:

- A-1 Agricultural
- R-E Residential Estate
- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multifamily Residential
- C-1 Commercial
- I-1 Industrial
- P-1 Public

165.08 A-1 AGRICULTURAL DISTRICT. The A-1 Agricultural District is intended to preserve and protect those agricultural and undeveloped lands within the City. The district encourages agricultural uses and related compatible rural uses, establishing clear boundaries for residential development and preserving land for crop production.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:
 - A. Farms, agricultural uses, orchards, nurseries, gardens, truck farming and other related uses;
 - B. Single-family detached dwellings occupied by farm owner or tenant operator with members engaged in the farm operations residing on the premises;
 - C. Quasi-public facilities and buildings, including cemeteries, public park and recreation facilities, churches, private and public schools;
 - D. Golf courses and other recreational uses or facilities that are not operated for commercial purposes;
 - E. Essential public services.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district: uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21.
 - A. Single-family non-farm residence;
 - B. Home occupations;
 - C. Extraction of sand, gravel, topsoil and other natural resources;
 - D. Concrete or asphalt plants for temporary use during construction, repair or maintenance of public roads or facilities;
 - E. Other uses approved by the Planning and Zoning Commission and Board of Adjustment.
4. Minimum Bulk Requirements.
 - A. Principal Structures:
 - Lot Area35 acres minimum

- Lot Width 200 feet minimum
- Front Yard 50 feet minimum
- Side Yard..... 30 feet minimum
- Rear Yard 50 feet minimum
- Building Height 35 feet maximum

B. Accessory Structures:

- Front Yard 50 feet minimum
- Side Yard..... 10 feet minimum
- Rear Yard 10 feet minimum
- Alley 8 feet minimum
- Building Height 2½ stories or 35 feet maximum

5. Existing Farmstead. An existing farmstead may be severed from the farm for use as a single-family dwelling as a special use non-farm family dwelling. A minimum of one acre and conformance to all setback requirements shall be required.

6. Off-Street Parking. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 581]

165.09 R-E RESIDENTIAL ESTATE DISTRICT. The Residential Estate District is intended to provide single-family housing on large lots to preserve and enhance the rural character and attractiveness of the area.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:
 - A. Single-family detached dwellings;
 - B. Quasi-public facilities and buildings, including cemeteries, public park and recreation facilities, churches, and private and public schools;
 - C. Golf courses and other recreational uses or facilities that are not operated for commercial purposes;
 - D. Essential public services.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district:
 - A. Farms, agricultural uses, orchards, nurseries, gardens, truck farming and other related uses except livestock and fowl operations;
 - B. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21.
 - A. Home occupations;
 - B. Other uses approved by the Planning and Zoning Commission and Board;

4. Minimum Bulk Requirements.
 - A. Principal Structures:
 - Lot Area25,000 square feet minimum
 - Lot Width50 feet minimum
 - Front Yard50 feet minimum
 - Side Yard25 feet minimum
 - Rear Yard50 feet minimum
 - Building Height2½ stories or 35 feet maximum
 - Lot Coverage40% maximum
 - B. Accessory Structures:
 - Front YardNo projection beyond principal structure
 - Side Yard10 feet minimum
 - Rear Yard10 feet minimum
 - Alley8 feet minimum
 - Building Height35 feet maximum
 - Building SizeTotal square feet of all accessory buildings no larger than total square feet of principal building

5. Off-Street Parking Requirements. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 587]

165.10 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT. The Single-Family Residential District is intended to provide single-family housing and related recreational, religious and educational facilities in orderly and attractive residential areas. These areas are to be protected from encroachment of uses that are not appropriate to a residential environment.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:

- A. Single-family detached dwellings;
- B. Quasi-public facilities and buildings, including cemeteries, public park and recreation facilities, churches, and private and public schools;
- C. Golf courses and other recreational uses or facilities that are not operated for commercial purposes;
- D. Essential public services.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district: uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21.

- A. Home occupations;
- B. Group or family homes;
- C. Child care centers;
- D. Other uses approved by the Planning and Zoning Commission and Board of Adjustment.

4. Minimum Bulk Requirements.

A. Principal Structures:

- Lot Area8,000 square feet minimum
- Lot Width35 feet minimum
- Front Yard25 feet minimum
- Side Yard8 feet minimum
- Rear Yard20 feet minimum
- Building Height2½ stories or 35 feet maximum
- Lot Coverage50% maximum

B. Accessory Structures.

- Front YardNo projection beyond principal structure
- Side Yard3 feet minimum
- Rear Yard3 feet minimum
- Alley8 feet minimum
- Building HeightNo more than height of principal building
- Building SizeTotal square feet of all accessory buildings
no larger than total square feet of principal building

5. Off-Street Parking Requirements. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 593]

165.11 R-2 TWO-FAMILY RESIDENTIAL DISTRICT. The Two-Family Residential District is intended to provide single-family and two-family housing and related recreational, religious and educational facilities in orderly and attractive residential areas. These areas are to be protected from encroachment of uses that are not appropriate to a residential environment.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:

- A. Single-family detached dwellings;
- B. Two-family dwellings;
- C. Quasi-public facilities and buildings, including cemeteries, public park and recreation facilities, churches, and private and public schools;
- D. Golf courses and other recreational uses or facilities that are not operated for commercial purposes;
- E. Essential public services.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district: uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21.

- A. Home occupations;
- B. Group or family homes;
- C. Child care center;
- D. Other uses approved by the Planning and Zoning Commission and Board.

4. Minimum Bulk Requirements.

- A. Principal Structures:
 - Lot Area10,000 square feet minimum
 - Lot Width50 feet minimum
 - Front Yard25 feet minimum
 - Side Yard8 feet minimum
 - Rear Yard20 feet minimum
 - Building Height2½ stories or 35 feet maximum
 - Lot Coverage60% maximum
- B. Accessory Structures:
 - Front YardNo projection beyond principal structure
 - Side Yard3 feet minimum
 - Rear Yard3 feet minimum
 - Alley8 feet minimum
 - Building HeightNo more than height of principal building
 - Building SizeTotal square feet of all accessory buildings
no larger than total square feet of principal building

5. Off-Street Parking Requirements. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 599]

165.12 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT. The Multi-Family Residential District is intended to provide higher density attached single-family or multi-family housing and related recreational, religious and educational facilities in orderly and attractive residential areas. These areas are to be protected from encroachment of uses that are not appropriate to a residential environment.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:
 - A. Two-family dwellings;
 - B. Single-family attached dwellings;
 - C. Multi-family dwellings;
 - D. Group or family homes;
 - E. Quasi-public facilities and buildings, including cemeteries, public park and recreation facilities, churches, private and public schools;
 - F. Golf courses and other recreational uses or facilities that are commonly operated on a non-profit basis;
 - G. Essential public services.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district: uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21.
 - A. Home occupations;
 - B. Nursing homes or elderly housing;
 - C. Boarding and lodging homes;
 - D. Funeral homes;
 - E. Child care center;
 - F. Other uses approved by the Planning and Zoning Commission and Board.

4. Minimum Bulk Requirements.
 - A. Principal Structures:
 - Lot Area10,000 square feet minimum for two units;
2,000 square feet minimum per each additional unit
 - Lot Width50 feet minimum
 - Front Yard25 feet minimum
 - Side Yard10 feet minimum
 - Rear Yard20 feet minimum
 - Building Height3 stories or 40 feet maximum
 - Lot Coverage75 percent maximum

B. Accessory Structures:

- Front Yard No projection beyond original structure
- Side Yard..... 3 feet minimum
- Rear Yard 3 feet minimum
- Alley 8 feet minimum
- Building Height 1 story or 20 feet maximum
- Building Size Total square feet of all accessory buildings
no larger than one-half total square feet of
principal building

5. Off-Street Parking Requirements. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 605]

165.13 C-1 COMMERCIAL DISTRICT. The Commercial District is intended to provide general retail, professional office and service uses for the needs, convenience and benefit to the area.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:

- Retail stores and businesses;
- Professional office buildings, medical and dental day care centers, and other similar types of uses;
- Business services such as banks, insurance and real estate offices, and other similar types of uses;
- Equipment sales, service shops and similar types of uses;
- Personal services and repair shops;
- Restaurants, cafes, taverns and liquor stores;
- Motels and hotels;
- Group or family homes;
- Nursing homes or elderly housing;
- Boarding and lodging homes;
- Funeral homes;
- Childcare centers;
- Multi-family residential dwellings;
- Churches and private clubs or lodges;
- Essential public services.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district: uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21: other uses approved by the Planning and Zoning Commission and Board.

4. Minimum Bulk Requirements.

- A. Principal Structures:
 - Lot AreaNone
 - Lot WidthNone
 - Front YardNone
 - Side YardNone; 8 feet when adjoining a residential zone
 - Rear YardNone; 10 feet when adjoining a residential zone
 - Building Height3 stories or 40 feet maximum
- B. Accessory Structures:
 - Front YardNo projection beyond original structure
 - Side YardNone; 3 feet when adjacent to residential zone
 - Rear YardNone; 3 feet when adjacent to residential zone
 - Alley8 feet minimum
 - Building Height1 story or 20 feet maximum.
 - Building SizeNone

5. Off-Street Parking Requirements. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 611]

165.14 I-1 INDUSTRIAL DISTRICT. The Industrial District is intended to provide general industrial and warehousing uses with minimal impact to adjacent properties.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:

- A. Manufacturing, assembling, compounding, packaging, processing, storage, or treatment of raw materials that create no offensive impacts with excessive noise, dust, odor, vibration or other interferences;
- B. Wholesaling, warehousing and storage uses within an enclosed building except for storage of anhydrous ammonia or petroleum products under pressure;
- C. Contractor or fabrication shops;
- D. Truck and freight operations;
- E. Lumber yards and building materials sales, fabrication and storage;
- F. Automotive sales and repair uses;
- G. Large equipment sales and repair uses;
- H. Essential public services;
- I. Uses specifically permitted in the Commercial District.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district: uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21.

- A. Telecommunication towers or structures;
- B. Sale or storage of fuels and chemicals;
- C. Storage of salvage or non-operative vehicles;
- D. Outdoor storage of materials or equipment permitted if enclosed by 8-foot screen to block visual access;
- E. Other uses approved by the Planning and Zoning Commission and Board.

4. Minimum Bulk Requirements.

- A. Principal Structures:
 - B. Lot AreaNone
 - Lot Width50 feet
 - Front Yard30 feet
 - Side Yard.....10 feet
 - Rear Yard30 feet
 - Building Height.....100 feet maximum
- C. Accessory Structures:
 - Front YardNo projection beyond principal structure
 - Side Yard.....None; 3 feet when adjacent to residential zone

Rear Yard None; 3 feet when adjacent to residential zone
Alley 8 feet minimum
Building Height 1 story or 20 feet maximum
Building Size None

5. Off-Street Parking Requirements. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 617]

165.15 P-1 PUBLIC DISTRICT. The Public District is intended to provide areas for general public facilities and services owned or operated by government agencies, school districts or other public agencies.

1. Permitted Principal Uses and Structures. The following principal uses and structures are permitted in this district:

A. Public facilities and buildings, including public park and recreation facilities, community centers, and other publicly owned properties;

B. Essential public services.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures are permitted in this district: uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

3. Special Uses. The following special uses may be permitted in this district by obtaining a special use permit in accordance with Section 165.21: other uses approved by the Planning and Zoning Commission and Board.

4. Minimum Bulk Requirements.

A. Principal Structures:

- Lot AreaNone
- Lot WidthNone
- Front Yard3 feet
- Side Yard3 feet
- Rear Yard3 feet
- Building Height35 feet maximum

B. Accessory Structures:

- Front YardNo projection beyond principal structure
- Side Yard3 feet
- Rear Yard3 feet
- Building Height1 story or 20 feet maximum
- Building SizeNone

5. Off-Street Parking Requirements. Parking spaces shall be provided in accordance with Section 165.16.

[The next page is 623]

165.16 OFF-STREET PARKING AND LOADING. All off-street parking spaces shall be maintained in satisfactory condition by the property owner for each building or use within any district. Adequate space for receipt or distribution of materials or merchandise by vehicles shall also be provided and maintained in satisfactory condition to avoid interference with public use of adjacent streets or alleys.

1. Minimum parking requirements are as follows:

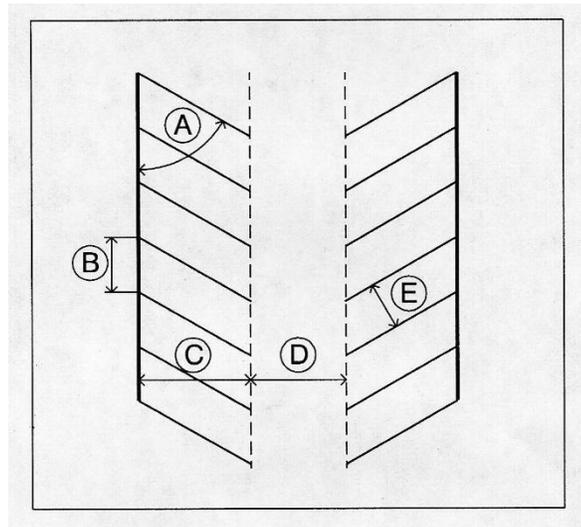
Use	Parking Spaces Required
Automobile or equipment sales and service	1 space/500 gross square feet
Churches	1 space/4 seats
Convenience stores	1 space/200 gross square feet
Funeral home	1 space/100 gross square feet
Hotel/motel	1 space/room plus 1 space/200 gross square feet of bar/restaurant areas
Group homes or nursing homes	1 space/2 beds plus 1 space/2 employees of largest shift
Industrial, manufacturing	1 space/500 gross square feet plus 1 space/company vehicle
Office, general	1 space/250 gross square feet
Recreation, building facility	1 space/200 gross square feet
Recreation, golf course or driving range	3 spaces/tee
Residence, multi-family dwelling	1 space/bedroom
Residence, single family dwelling	2 spaces
Residence, two family dwelling	2 spaces/unit
Restaurant, fast food	12 spaces/1,000 gross square feet dining area
Restaurant, sit-down	9 spaces/1,000 gross square feet
Retail, furniture, appliance or display	1 space/500 gross square feet
Retail, general trade	1 space/200 gross square feet
School, elementary	2 spaces/classroom
School, secondary	1 space/2 students
Wholesale trade	1 space/500 gross square feet

2. Other Parking Requirements. Any building, structure, premises or use not specifically mentioned in this section shall have parking requirements applied from a similar use as listed above.

3. Accessible Parking. Parking spaces accessible for persons with disabilities shall be required for new construction projects where parking is provided for employees, visitors, or residents in accordance with the standards set forth below. Where required parking for residential uses exceeds six spaces, one accessible parking space shall be provided. Accessible spaces required may be counted toward the total number of spaces required in 165.16(1), Off Street Parking and Loading.

Total Parking Spaces	Accessible Parking Spaces Required
10 – 25 Spaces	1 Space
26 – 50 Spaces	2 Spaces
51 – 75 Spaces	3 Spaces
76 – 100 Spaces	4 Spaces

4. **Parking Dimensions.** Parking spaces and vehicle aisle dimensions are required as follows:



Parking Angle in Degrees (A)	0°	30°	45°	60°	90°
Curb Length per Space (B)	N/A	18.0 feet	12.7 feet	10.4 feet	19.0 feet
Space Depth (C)	9.0 feet	17.3 feet	19.8 feet	21.0 feet	19.0 feet
Access Aisle Width (D)	12.0 feet	12.0 feet	13.0 feet	18.0 feet	24.0 feet
Space Width (E)	9.0 feet				

5. **Additional Parking Regulations.** As used in this subsection, “vehicle” includes (but it not limited to) motorized vehicles, travel trailers, camping trailers and boats. †

A. No person shall park, store or permit the parking or storage of any vehicle in the front yard of a one- or two-family dwelling for more than 48 consecutive hours except on a driveway.

B. No person shall park, store or permit the parking or storage of more than two vehicles in the combined side and rear yards of a one- or two-family dwelling unless such parking or storage is in an enclosed building or garage, or in an area surfaced with crushed rock, asphalt, concrete or similar surface designed and maintained to prevent muddy conditions, erosion, the flow of water onto adjoining property, and weed growth.

C. No one- or two-family dwelling with a one- or two-car garage shall have more than 25 percent of the front yard used for driveway parking purposes. However, this restriction shall not prohibit the construction of a 20-foot-wide driveway. One- and two-family dwellings that have a three-car or larger garage shall be subject to the discretion of the Zoning Administrator.

D. No vehicle parked in any required yard shall obstruct a public sidewalk. If no public sidewalk exists, then no such vehicle shall be parked closer than five feet to the street right-of-way. In addition, no recreational vehicle shall be parked within 30 feet of the lot line intersection for a corner lot. Recreational vehicles include bus campers, camper trailers, pickup campers, travel trails, motor homes, snowmobiles, boats and the like.

† **EDITOR’S NOTE:** See also Section 50.02(13) specifically restricting outside parking and storage which creates a public nuisance.

o o o o o o o o o o

[The next page is 631]

165.17 ADMINISTRATION.

1. Permits. No building shall be erected, moved, converted, enlarged, reconstructed or structurally altered without a permit from the City to do so. Such permits shall require conformance with the provisions of this chapter and in the case of a building for use as a dwelling, conformance with the City's housing standards. Such permits shall be issued upon application therefor by the builder or owner.
2. Fees. Fees are required for review and approval of site plans and issuance of a building permit. All fees required shall be paid to the Clerk. Failure to approve any request made in an application, petition or appeal shall not be cause to refund the fee. The fees include the cost of one review of the site plan and one inspection of the building site. If any further reviews or inspections are required, those costs will be the responsibility of the permit applicant. Unless otherwise provided, a filing fee shall accompany all applications, petitions, or appeals. All fees shall be established by resolution of the Council. If work commences without a permit, the fee for the permit shall be doubled.
3. Deposits. All building permits shall be accompanied by a deposit check, payable to the City, and equal to the amount of the permit fee. The Clerk will retain all deposits until satisfactory project completion. Forfeiture of the deposit will occur if all City codes, ordinances and rules are not properly followed as determined by the Zoning Administrator.
4. Zoning Administrator. The Zoning Administrator shall serve as a clerk for the Planning and Zoning Commission and for the Board of Adjustment. The Zoning Administrator's responsibilities shall be reviewing the building applications and permits and reporting the Commission's recommendations and the Board's findings to the Council.
5. Building Inspector. The Building Inspector hired by the City shall be responsible for determining if the builder is following the Code, ordinances and rules; determining whether the application complies with City zoning and other laws; enforcing the provisions of the zoning code, and conducting final home inspections before the issuance of occupancy permits.
6. Clerk. The Clerk shall be responsible for providing applications to citizens upon request; reviewing the applications to ensure they are complete; and processing and submitting the forms to the proper party.
7. Certificate of Occupancy. No building shall be used or occupied until a Certificate of Occupancy has been issued. The certificate will be issued only after the Building Inspector has conducted a final inspection, found that all City zoning laws and requirements have been met, and has received all required inspection approvals from the Building Inspector. The Building Inspector shall sign the Certificate of Occupancy to certify that all necessary construction is complete.
8. Enforcement. The Building Inspector shall enforce the provisions of this chapter.

165.18 CONFORMANCE.

1. Nonconforming Uses of Land. The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the provisions of this chapter may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied when such use became nonconforming under the provisions of this chapter.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel, which was not occupied by such use when it became nonconforming under the provisions of this chapter.

C. If any such nonconforming use of land ceases for any reason for a period of six months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

2. Nonconforming Uses of Structures. The lawful use of a structure, or of a structure and land in combination, which becomes nonconforming under the provisions of this chapter may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted entirely or in part to a use not permitted by this chapter in the district in which it is located, except when required by law, shall be enlarged, extended, reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the Board, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

B. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

C. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

3. Nonconforming Structures. Where a structure becomes nonconforming by reason of restriction on area, lot coverage, height, yards, or other characteristic of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way, which increases its nonconformity.

B. Should such structure be destroyed by any means to an extent of 60 percent of its assessed value, it may be reconstructed, provided that it is not

enlarged, the nonconformity is not increased and there is no nonconforming use of land involved.

C. Should such structure be destroyed by any means to an extent of 60 percent or more of its assessed value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

4. Required Repairs for Nonconforming Buildings. Nothing in this chapter shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, provided that no structural enlargement, extension, alteration, or change shall be made which will increase the degree of nonconformity of such building.

5. Nonconforming Lots. If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established for that district by this chapter, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used which does not meet lot width and area requirements established for that district by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

165.19 BOARD OF ADJUSTMENT.

1. Board of Adjustment Created. A Board of Adjustment is created which shall be composed of five residents of the City. Members shall not hold any other elected or appointed position in the City. The members shall be appointed by the Council for staggered terms of five years. Any vacancy occurring on the Board caused by resignation or otherwise shall be filled by appointment of the Council for the unexpired term. Each member of the Board shall serve without compensation, except for documented out-of-pocket expenses, which shall be subject to the approval of the Council. The Board shall elect a Chairperson from its membership, and shall elect a Secretary.

2. Meetings. The meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. A meeting shall be held in January of each year to elect officers and review administrative rules. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or it absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Clerk's office and shall be a public record. The presence of three members shall be necessary to constitute a quorum. The concurring vote of three members of the Board is necessary.

3. Appeals. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Zoning Administrator or of any other administrative officer in the enforcement of this chapter or of the zoning laws of the State of Iowa. Such appeal shall be taken within ten days by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator and any other officer whose decision is the subject of the appeal shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. The Board shall fix a reasonable time for the hearing on the appeal, give at least ten days' public notice

thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent, or by attorney.

4. Powers. The Board has the full power to do the following:
 - A. Grant variances as provided by the laws of the State and this Code of Ordinances.
 - B. Hear appeals of decisions of the Zoning Administrator as provided in Subsection 3.
 - C. Issue special use permits for otherwise prohibited uses where deemed necessary for the protection, health, safety or general welfare of the City, upon such conditions and restrictions as the Board finds appropriate.

165.20 VARIANCES. A variance may be granted when a property owner shows that a strict application of the terms of this chapter imposes practical difficulties or hardships in the use, construction or alteration of property. The Board shall be permitted to approve, approve with conditions or deny a request for a variance.

1. Application for Variance. A request for a variance may be initiated by a property owner or his/her authorized agent by filing an application with the Clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan and such other plans and data showing the dimensions, arrangements, descriptive data and other materials constituting a record essential to an understanding of the proposed use or proposed modification in relation to the standards set forth herein. The application shall also be accompanied with a fee as set forth in Section 165.17.
2. Board. The Board shall consider the application at a public hearing conducted as part of a meeting called by the Chairperson. The Board shall approve, deny or modify the application within seven days of the public hearing.
3. Variance Review Standards. The Board may grant a variance only if the applicant has proven that, owing to special conditions of the particular situation, literal enforcement of the Zoning Code would create an unnecessary hardship. The burden of proof rests with the applicant. A finding of hardship can only be supported upon demonstration by the applicant and a finding by the Board that the following standards have been met:
 - A. The variance will not be contrary to the public interest.
 - B. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone.
 - C. The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood.
 - D. The use to be authorized by the variance will not alter the essential character of the locality.
 - E. The variance shall not violate the spirit of the Zoning Code.
 - F. The variance shall do substantial justice.
4. Decisions. The concurring vote of a majority of members of the Board shall be necessary to grant a variance. No order of the Board granting a variance shall be valid for a period longer than six months from the date of such order, unless the Board

specially grants a longer period of time or a building permit is obtained within the six-month period and construction is commenced.

165.21 SPECIAL USE PERMITS. Allowable special uses may be permitted, enlarged or altered upon application for a special use permit in accordance with the rules and procedures of the Board. The Board will grant or deny a special use permit in accordance with the standards set forth herein and the intent and purposes of this chapter. In granting special use permits, the Board will authorize the issuance of a special use permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance for the special use permit. Special use permits are not transferable.

1. **Application for Special Use Permit.** A request for a special use permit for a special use or modification for a special use may be initiated by a property owner or their authorized agent by filing an application with the Clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan and such other plans and data showing the dimensions, arrangements, descriptive data and other materials constituting a record essential to an understanding of the proposed use or proposed modification in relation to the standards set forth herein. The application shall also be accompanied with a fee as set forth in Section 165.17.
2. **Planning and Zoning Commission Meeting.** The application, along with all required data, shall be transmitted to the Planning and Zoning Commission for review and recommendation. Such review by the Commission shall not be concluded until consideration is given to comments at a public hearing that may be part of a regularly scheduled meeting. Within 30 days of the hearing, the Planning and Zoning Commission shall submit a written recommendation to the Board setting forth the reasons for its recommendation of acceptance, denial or modification of the application.
3. **Board.** After the transmittal of the recommendation from the Planning and Zoning Commission, the Board shall consider the application at a public hearing conducted as part of a meeting called by the Chairperson. The Board must approve, deny or modify the Special Use Permit application within 60 days of the public hearing.
4. **Standards.** In considering all appeals and all proposed special use permits to this chapter, the Board shall, before making any exceptions or variations from the Zoning Code in a specific case, first determine that the following standards are met:
 - A. It will not impair the essential character or use and enjoyment of other properties in the area for any use permitted in that district.
 - B. It will not impair an adequate supply of light or air to adjacent properties.
 - C. It will not unreasonably increase congestion in public streets or increase the danger of fire or endanger public safety.
 - D. It will not unreasonably diminish or impair established property values within the surrounding area.
 - E. It will be consistent with the intent and purpose of the district in which it is located.
 - F. It will not in any other respect impair the public health, safety, comfort or welfare of residents.
5. **Decisions.** The concurring vote of a majority of members of the Board shall be necessary to grant a special use permit. No order of the Board granting special use

permit shall be valid for a period longer than six months from the date of such order, unless the Board specially grants a longer period of time or a building permit is obtained within the six-month period and construction is commenced.

[The next page is 653]

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Short Title	170.10 Subdivision Design Standards
170.02 Purpose	170.11 Streets and Rights-of-Way
170.03 Jurisdiction	170.12 Required Improvements
170.04 Definitions	170.13 Fees
170.05 Sketch Plat	170.14 Variations and Exceptions
170.06 Preliminary Plat	170.15 Enforcement
170.07 Final Plat	170.16 Changes and Amendments
170.08 Recording of Final Plat	170.17 Validity
170.09 Bond Requirements	

170.01 SHORT TITLE. This chapter shall be known and may be cited as the Subdivision Ordinance for the City of Kelley, Iowa.

170.02 PURPOSE. The purpose of this chapter is to provide for the orderly development of the City and adjacent land by establishing appropriate standards for the design and development of streets, blocks, lots, utilities and other improvements by promoting coordination with existing development, establishing procedures and conditions for approval of subdivisions of land, providing for the enforcement and penalties for the violation thereof, and promoting the health, safety, and general welfare of the community.

170.03 JURISDICTION. This chapter is adopted by the City, governing the subdivision of all lands within the corporate limits of the City and, pursuant to Section 354.9 of the *Code of Iowa*, within two miles adjacent to said corporate limits as governed by the laws of the State. All plats, re-plats or subdivisions of land shall be submitted in accordance with the provisions of this chapter.

170.04 DEFINITIONS. For the purpose of this chapter, certain words are hereby defined.

1. “Alley” means any public way designed to be used as a secondary means of access to the side or rear of abutting property whose principal frontage is on some other public way.
2. “As-built plans” means plans for public improvements that have been revised to record the construction as actually completed and to record any changes in the construction from the approved design plans.
3. “Block” means an area of land within a subdivision that is entirely bounded by streets, highways, parks, railroad or similar fixed land division and/or the exterior boundaries of the subdivision.
4. “Bond, maintenance” means a surety bond on terms approved by the City Attorney, or cash deposit made out to the City in an amount equal to the full cost of the improvements which are required by this chapter, said cost being estimated by the City staff and Council, and said surety bond or cash deposit being legally sufficient to secure to the City that said improvements shall be kept in good repair from the time of acceptance by the City of said improvements for such period of time as is specified by this chapter.

5. “Bond, performance” means any surety bond or cash deposit posted by a contractor made out to the City in an amount equal to the full cost of the improvements. The bond amount shall be that of the contract price, said surety bond or cash deposit being legally sufficient to secure to the City that said improvements will be constructed in accordance with the terms of the contract documents or improvement agreement.
6. “Building line” means the outer boundary of a building established by the location of its exterior roof or walls or any projections other than steps, unenclosed balconies, or decks.
7. “Commission” means the Planning and Zoning Commission of the City.
8. “Cul-de-sac” means a short, minor street having one end open to motor traffic and the other end permanently terminated by a vehicular turnaround.
9. “Improvement agreement” means a written agreement signed by the subdivider and authorized agents of the City where the subdivider agrees to undertake performance of those obligations imposed by this chapter, or agrees to undertake additional public facility improvements in exchange for such consideration of development rights as may be contained in the agreement. An agreement is to be entered into after approval of the preliminary plat in the event that improvements set forth therein will not be completed before submission of the final plat.
10. “Easement” means a grant by the property owner of the use, for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the owner of the fee shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the right of the grantee. Public utilities shall have the right to trim or remove trees, which interfere with the use of such easements.
11. “Engineer” means a Registered Professional Engineer authorized to practice civil engineering as defined by the laws of the State.
12. “Land surveyor” means a registered Professional Land Surveyor authorized to practice surveying as defined by the State.
13. “Landscape architect” means a registered Landscape Architect authorized to practice landscape architecture as defined by the State.
14. “Lot” means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.
15. “Lot, corner” means a lot abutting upon two or more streets at their intersection.
16. “Lot, double frontage” means a lot abutting upon two public streets between the front and rear lot lines.
17. “Lot, interior” means any lot other than a corner or double frontage lot.
18. “Outlot” means an unbuildable area of land due to its size, shape, topography, or general location within the phasing of a subdivision.
19. “Plat, final” means a map, drawing or chart on which the subdivider’s plan of the Subdivision is presented and which he or she submits for final approval and intends to file and record with the County Recorder.

20. "Plat, preliminary" means a study or map indicating the proposed manner or layout of the subdivision submitted to the Commission and Council for consideration and determination whether the proposed layout of the land is satisfactory from the standpoint of public interest and safety and conforms to State statutes and this Code of Ordinances.
21. "Plat, sketch" means a study or map indicating the general layout of rights-of-way and alignments of streets, utility easements, and dedicated areas for public use for a land area intended to be subdivided in conjunction with a preliminary plat. A sketch plat shall serve only as a guide for development and shall not be binding on the City for subsequent plat review and approvals.
22. "Public pathway" means a pathway restricted to pedestrians and non-motor vehicles for the purpose of separating automobile traffic from pedestrian and non-motorized traffic and linking together public land use.
23. "Roadway" means the wearing surface portion of the street available for vehicular traffic, and where curbs are laid, the portion from back of curb to back of curb.
24. "Sidewalk" means a public way designed and used for walking and located in public right-of-way or public easements.
25. "Street" means a public or private thoroughfare, which affords the principal means of access to abutting property.
26. "Street, arterial (Class A)" means a street used primarily for cross-town or through traffic.
27. "Street, collector (Class B)" means streets which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
28. "Street, marginal access" means a street that is parallel to and adjacent to a major thoroughfare or highway; and which provided access to abutting properties and protection from through traffic while limiting access to the major thoroughfare.
29. "Street, minor (Class C)" means a street used primarily for access to the abutting property.
30. "Subdivider" means any person, individual, firm, partnership, association, corporation, estate, trust, or other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein and includes any agent of the subdivider.
31. "Subdivision" means the division of land into three or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development; or, in any change in existing street lines or public easements. The term, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided, or to the re-subdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

170.05 SKETCH PLAT. The subdivider shall prepare and file with the Clerk a minimum of 15 days prior to a scheduled meeting of the Commission eight copies of a sketch plat for the purpose of City review before the submittal of a preliminary plat.

1. The Clerk shall review the sketch plat with the subdivider, the Planning and Zoning Administrator, other City staff, and the Commission to consider the requirements of this chapter and the best use of the tract or parcel proposed to be subdivided. The Clerk shall, within 20 days of the submittal, complete the City review process, and notify the subdivider of any review comments.
2. A sketch plat shall include the following information at a minimum:
 - A. Name of the proposed subdivision.
 - B. Name, address, and other pertinent information about the property owner, applicant or other preparer of the sketch plat.
 - C. A north arrow and date of preparation.
 - D. Contour lines at intervals of not more than five feet.
 - E. The general location, areas and dimensions of any lots to be platted.
 - F. The general location, width and dimensions of any streets, alleys, and other ways existing or proposed to be reserved or dedicated for public use.
 - G. The general location of any existing or proposed public infrastructure, including water, sanitary sewer, storm sewer, or other infrastructure.
3. Neither the subdivider nor the City shall be bound by any comments, recommendations, determinations or decisions of City staff or Commission offered during the review.

170.06 PRELIMINARY PLAT. The subdivider shall prepare and file with the Clerk a minimum of 15 days prior to a scheduled meeting of the Commission 10 copies of a preliminary plat conforming in detail to the requirements set forth in this chapter.

1. The preliminary plat shall be prepared by a Professional Engineer, Land Surveyor or Landscape Architect.
2. Upon submittal, the Clerk shall review the preliminary plat with the Planning and Zoning Administrator and other City staff and carefully examine the preliminary plat as to its compliance with the laws and the ordinances of the City, the existing street system in relation to the master plan, and good engineering practices.
3. The City staff may confer with the subdivider on changes deemed advisable and the nature and extent of such improvements to be made by the subdivider.
4. When the proposed subdivision occurs within the two mile radius of the City where Story County, Boone County or City of Ames subdivision regulations also apply, the subdivider shall demonstrate compliance with all applicable requirements set forth in any such regulations prior to approval of the preliminary plat by the Council. The City also has power of review of any subdivision within two miles distance of the City's boundaries in Story County, Boone County or the City of Ames.
5. Upon completing their investigation, including any changes made as a result of the initial review, the City staff shall submit their findings and recommendations to the Clerk, who shall forward the preliminary plat to the Commission.

6. The Commission shall examine the preliminary plat for its compliance with this chapter and the Comprehensive Plan of the City and shall have up to 45 days within which to submit a recommendation to the Council, provided that the subdivider may agree to an extension of time not to exceed 60 days.
7. Upon submittal of the preliminary plat to the Council, and the Council rejects the preliminary plat, the Council may request the City staff and the subdivider to reevaluate said plat upon the objections made by the Council and ask the City staff and the subdivider to resubmit recommendations.
8. The Council shall, after receipt of the Commission recommendations on the preliminary plat or after the 45 days or any extension thereof shall have passed, examine the preliminary plat and by resolution grant approval or reject the preliminary plat. If the Council denies approval of the preliminary plat as recommended by the Commission, the Council shall indicate any reasons for such denial.
9. The approval of the preliminary plat by the Council shall be null and void unless the final plat is presented to the Council within 180 days after the date of approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat. An extension of the requirement may be granted by the Council upon the written request of the subdivider.
10. Approval of the preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat and any required public improvements, but shall not be deemed approval of the subdivision.
11. The preliminary plat shall be drawn on a 24 x 36-inch maximum size sheet at a scale of 1" = 50' or as approved by the City staff, and shall include 10 copies with the following information:
 - A. Location map showing the subdivision name, an outline of the area to be subdivided, existing streets and subdivisions, and north arrow and scale.
 - B. Name and addresses of recorded owner or developer.
 - C. Name, address and seal of Engineer, Surveyor or Landscape Architect.
 - D. Name of subdivision, date, north arrow and scale.
 - E. Legal description, boundary with dimensions (indicated with a heavy, solid line) and acreage of the proposed subdivision.
 - F. Contour lines at intervals of not more than two feet.
 - G. Zoning classification of the proposed subdivision.
 - H. Location and name(s) of adjoining subdivision(s) or undeveloped land adjacent to the proposed subdivision and owners and persons having ownership interest in all adjoining properties.
 - I. Location, names and widths of all existing and proposed roads, alleys, streets and highways adjoining the area being subdivided.
 - J. Existing buildings, railroads, underground utilities, other rights-of-way and easements.
 - K. Location and areas of any existing watercourses, wetlands, floodplains, trees, woodland resources, prairie resources or other environmentally on or within 200 feet of the proposed subdivision.

- L. Layout of proposed blocks and lots, including the dimensions of each lot, the lot and block numbers in numerical order, and the area of each lot in acres and square feet.
- M. Layout, widths and other dimensions of any proposed streets, alleys, utility, and other easements, and other areas dedicated for public use, such as schools, parks, pathways, or other public or reserved areas.
- N. A cross-section of the proposed streets showing the roadway location, paving materials and dimensions, type of curb and gutter and sidewalks to be installed.
- O. Layout of proposed water mains and sanitary sewers, including the source of the water and sewer services and any connections to existing infrastructure.
- P. Layout of site drainage, including drainage easements, proposed storm sewers, storm water management areas, and other structures.
- Q. Layout of proposed gas, electric, telephone, and other utility systems and their source of service.
- R. Building setback lines for all lot lines.
- S. A letter of consent from all persons having an interest in the land to be subdivided demonstrating their consent to the subdivision of the land, and a statement that the subdivision will comply and be in conformance with all the requirements of the ordinances and regulations of the City and to platting procedures and conditions.
- T. Any preliminary restrictions or covenants proposed by the subdivider.
- U. Other information deemed necessary for the preliminary plat review as may be required by the City.

170.07 FINAL PLAT. The subdivider shall prepare and file with the Clerk a minimum of 15 days prior to a regular meeting of the Commission 10 copies of a final plat conforming in detail to the requirements set forth in this chapter. Procedures for final plats shall be the same as set forth for preliminary plats in this chapter.

1. No final acceptance or approval of the final plat shall be granted by Council until all required improvements are inspected, approved and certified to the City staff. The subdivider shall provide, at the subdivider's own cost, inspection services from a Professional Engineer or other inspector approved by the City who shall submit a certified statement to Council that all public improvements authorized by the Council have been completed in accordance with this chapter.
2. If construction of improvements of any kind is initiated by the subdivider without preliminary plat approval from the Council, the subdivider shall be responsible for any changes in these improvements required by the Council before final plat approval.
3. If Council does not require that all public improvements be installed, dedicated and approved prior to approval of the final plat, the Council shall require the subdivider to execute an improvement agreement as set forth in this chapter and provide security in the form of a performance bond. Between the approval of a preliminary plat and submission of a final plat for approval, the subdivider must either complete all required

public improvements to the satisfaction of the City or enter into an improvement agreement to do so.

4. The Council shall act within 30 days of the date of submittal of the final plat for approval.
5. A final plat shall meet the following requirements:
 - A. The final plat shall include all of the property shown on the preliminary plat. Any property not included in the final plat for subdivision and development shall be designated as an outlet.
 - B. The final plat shall be drawn on a 24 x 36-inch maximum size sheet at a scale of 1" = 50' or as approved by the City staff.
 - C. When more than one sheet is used to describe the property to be subdivided, each sheet shall display the both the number of the sheet and the total number of sheets included in the final plat, as well as clearly labeled match lines indicating where the sheets adjoin.
6. A final plat of 10 copies shall include the following information:
 - A. Name of the subdivision.
 - B. Name and address of the owner and subdivider.
 - C. Name of the preparer and date of preparation.
 - D. A statement by a Land Surveyor that the plat was prepared by or under his or her supervision, the surveyor's signature, Iowa registration number and seal, and certification of the accuracy of the plat.
 - E. North arrow, scale, and date.
 - F. Legal description of the boundary and areas to be platted.
 - G. Existing zoning classification.
 - H. Survey data describing the bounds of any proposed lot, block, public or private way, right-of-way, easement, dedication or other area within the proposed subdivision, the outer boundaries of the land to be subdivided, and reference to at least two section corners or at least two established monuments.
 - I. All public easements, dedications, or other reservations clearly labeled with reserved width and purpose.
 - J. All distance, bearing, curve and other survey data.
 - K. Locations of all existing and recorded streets intersecting the outer boundaries of the subdivision.
 - L. Existing floodplains.
 - M. Names of any existing or proposed public ways.
 - N. Block numbers, lot numbers, dimensions and areas.
 - O. Building setback lines in accordance with the Zoning Ordinance from all public ways.
 - P. Resolution and certificate for approval by the Council and signatures of the Mayor and Clerk.

7. A final plat shall include the following for Commission review:
 - A. Six sets of construction documents submitted on maximum 24 x 36-inch sheets, including the design of all streets, alleys, sanitary sewers, water mains, storm sewers, drainage channels, and other public improvements required for the subdivision. These plans shall include plans and profiles as required at a scale of 1" = 50' horizontal, 1" = 5' vertical, with appropriate construction details to construct the improvements.
 - B. The construction documents shall include a layout of the subdivision showing the relationship between all existing and proposed public improvements.
 - C. A proposed schedule of construction for the required public improvements.
 - D. Any final improvement agreement.
 - E. 10 copies of any final restrictions or covenants proposed by the subdivider.
8. A final plat shall include the following attachments for Council review:
 - A. 10 copies of the final plat as approved by the Commission.
 - B. 10 copies of any final restrictions or covenants for recording.
 - C. Any final improvement agreement for recording.
 - D. 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.
 - E. 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.
 - F. 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.
 - G. 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*.

H. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

I. A deed to the City, properly executed, for any areas to be conveyed to the Council.

J. A certificate from an Engineer that “as-built” plans show that all required public improvements have been completed in accordance with the approved construction documents, or a certificate from the Clerk that a performance bond in accordance with this chapter guaranteeing completion of all required public improvements has been approved by the City Attorney and filed with the City Clerk.

K. A certificate from the Clerk that a maintenance bond in accordance with this chapter guaranteeing the required public improvements against defective materials or workmanship for a period of four years has been approved by the City Attorney and filed with the Clerk.

170.08 RECORDING OF FINAL PLAT. The passage of the resolution by the Council accepting the final plat shall constitute final approval of the platting of the area as shown on the final plat.

1. The Council shall provide the subdivider with a resolution of approval for the County Recorder. The subdivider shall cause the final plat to be recorded in the Office of the Recorder of Story County, Iowa, and shall provide the Clerk a certificate of recording of the final plat and other certifications and instruments recorded with the County Recorder’s Office.
2. Approval of the final plat shall be null and void unless Council files the final plat in the office of the County Recorder within 60 days of the date of said final approval.

170.09 BOND REQUIREMENTS. The subdivider shall be required to submit a performance bond and a maintenance bond for all required public improvements.

1. The subdivider shall submit to Council a performance bond at the time of submittal of the final plat in an amount not less than a certified estimate from an Engineer for the construction, installation and dedication of all required public improvements as shown on the construction documents that have not been installed and accepted by the City. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution as set forth in this chapter.
2. All performance bonds shall have a time period as determined by the Council. All of the required public improvements shall be completed within the time period specified, which shall in no event exceed two years from the date of final plat approval by the Council.
3. The Council may grant an extension of time for completing any required public improvements in increments of not more than one year but only if there shall be no unreasonably adverse effect on property owners within the subdivision. The subdivider shall submit a written request to Council for any request for extension.
4. The subdivider shall file a new performance bond upon the granting of an extension in an amount based on any revised estimate of the cost for completing the required public improvements.

5. In the event that all required public improvements are not completed within the designated time period or extension and no further extension is granted, the Council may execute the performance bond to complete the improvements.
6. The performance bond may not be released or reduced except as follows:
 - A. The Council will not accept dedication of required public improvements or release or reduce a performance bond until the subdivider has submitted certificate from an Engineer that "as-built" plans show that all required public improvements have been completed in accordance with the approved construction documents as required in this chapter.
 - B. A performance bond will be released upon the actual dedication and acceptance of required public improvements. Partial release or reduction of the original bond amount may be approved by the Council upon dedication of the improvements completed.
7. The subdivider shall, at the time of acceptance of the required public improvements by the Council, post a maintenance bond in an amount determined by the City as sufficient and as approved by the City Attorney as to form, sufficiency and manner of execution as set forth in this chapter.
 - A. The Subdivider shall be required to maintain all required public improvements free of defects in materials and workmanship for a period of four years from the date of acceptance of the improvements.
 - B. A maintenance bond posted by the subdivider's contractor may be accepted.
 - C. The maintenance bonds shall be in the amount of the performance bond.

170.10 SUBDIVISION DESIGN STANDARDS. The standards and details of design herein are intended only as a minimum requirement so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of a plat, the subdivider shall use standards consistent with the site conditions as to assure an economical, pleasant and durable neighborhood.

1. **Blocks.** No block shall be longer than 1,320 feet or less than 250 feet, except as otherwise approved by the Council. The width of the block shall be sufficient to permit two tiers of lots with sufficient dimensions conforming to the requirements of the Zoning Code. One tier of lots shall be permitted for blocks adjacent to arterial streets, railroads or waterways.
2. **Lots.** Lots shall conform to the following requirements:
 - A. The dimensions, shape and orientation of the lots shall be determined with regard to solar orientation, topography, land features and circulation.
 - B. Corner lots shall be not less than 15 feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets.
 - C. Double frontage lots other than corner lots are prohibited except where such lots back on a primary street or highway or except in the case of large commercial or industrial lots. Ingress and egress shall be limited to the frontage

street and are strictly prohibited on the rear street. A plat restriction shall be provided covering this restriction.

D. Each lot shall be provided by means of a public street with satisfactory access to an existing public street.

E. Each lot shall conform to the lot dimensions and area as set forth or the applicable zoning district in the Zoning Code.

F. Side lot lines where possible shall be at right angles or radial to the street lines.

G. Each lot shall be provided with access and connections to public water and sanitary sewer services.

H. An area of land created by subdivision that is unbuildable due to its location, size, shape, or intended use, shall be designated an outlot on the final plat, the approval of which shall thereby restrict it as an unbuildable area.

3. Monuments. Monuments shall meet all requirements specified by statute and shall be placed at block corners, point of curves, change in direction along lot lines at each corner in accordance with this chapter. Monumentation shall be completed prior to submittal of the final plat as required in this chapter.

170.11 STREETS AND RIGHTS-OF-WAY. The arrangement, character, extent, width, grade, and location of all streets shall conform to the requirements of this chapter and any further plans adopted by the City.

1. Relation to Existing Streets. New subdivisions shall make provisions for continuation and extension of existing arterial and collector streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property at equal or greater width, and in similar alignment, unless variations are approved by the Council.

2. Rights-of-way shall be provided for all streets as follows:

Street Classification	Width
Class A	80 feet
Class B	60 feet
Class C	60 feet
Cul-de-sac, diameter	90 feet
Alleys, residential	16 feet
Alleys, commercial and industrial	20 feet

3. Roadway widths, measured from back of curb to back of curb, shall be provided for all streets as follows:

Street Classification	Width
Class A	45 feet
Class B	31 feet
Class C, parking two sides	31 feet
Class C, parking one side	26 feet
Cul-de-sac, diameter	80 feet
Alleys, residential	16 feet
Alleys, commercial and industrial	20 feet

4. Cul-de-sacs shall be constructed in accordance with the requirements as shown on Sketch A, “Standards for Normal Cul-De-Sac Right-of-Way” attached to the ordinance codified in this chapter.

5. Grades. Streets and alleys shall be completed to grades which have been approved by the Council. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed the following:

Class A	6%
Class B	7%
Class C, parking two sides	8%

6. General Considerations. Streets shall conform to the following general considerations:

- A. Street intersections shall be as nearly right angles as possible.
- B. Intersections of more than two streets are not permitted.
- C. Intersection of street centerlines shall not be less than 75 degrees.
- D. Offsets of cross intersecting streets shall not be less than 150 feet.
- E. No dead-end streets or alleys will be permitted except at subdivision boundaries where an interim turnaround shall be required.
- F. Cul-de-sacs shall not exceed 600 feet in length.
- G. Class A and Class B streets in a subdivision shall extend through to the boundaries of the subdivision.
- H. No private drives shall be connected to Class A streets unless permitted by the Council.
- I. Alleys shall be hard surfaced with Portland cement concrete or asphaltic cement in residential areas.

7. Streets shall be installed at the expense of the subdivider and be constructed in accordance with the requirements of the City. Any such street shall become the property of the City upon the City’s approval and acceptance of such street.

8. Half Streets. Dedication of half streets will not be allowed. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if deemed necessary by the Council.

9. Street Names. All newly platted streets shall be named and in a manner conforming to the prevailing street naming system. A proposed street that is in alignment with other existing streets shall bear the same name. Names of new streets shall be subject to the approval of the Council in order to avoid duplication of close similarity of names.

170.12 REQUIRED IMPROVEMENTS. The subdivider shall provide all required public improvements in accordance with the Comprehensive Plan, Subdivision Design Standards, and *Iowa Statewide Urban Design and Specifications*, current edition. All required improvements

shall be constructed in accordance with the standard specifications as adopted by the City and with the requirements as shown in Sketch B and Sketch C, "Standards for Utility Locations within R.O.W" attached to the Subdivision Code.

1. **Water Supply.** The subdivider shall provide the subdivision with a complete water main system which shall be extended into and through the subdivision to the outer boundary lines, and which shall provide for a water connection for each lot, and shall be connected to the City water distribution system. The subdivider shall provide all hydrants, valves, and other appurtenances. Prior to connection with the existing water system of the City, the subdivider may be responsible for a connection fee in accordance with requirements of the City.
2. **Sanitary Sewers.** The subdivider shall provide the subdivision with a complete water main system which shall be extended into and through the subdivision to the outer boundary lines, and which shall provide for a sewer connection for each lot, and shall be connected to the City sanitary sewer collection system. Further, where the existing sewer may be reasonably extended through the subdivision so as to provide for continuous future development, such provisions shall be made by the subdivider.
 - A. All house laterals shall have a minimum diameter of four inches and shall be installed to the right-of-way line prior to paving of the street.
 - B. Sanitary sewers shall have a minimum diameter of eight inches and be made available to each lot. Any lot in the Residential Estate District not served by public sewer shall show satisfactory results of soil percolation tests provided by the subdivider.
3. **Storm Sewers.** The subdivider shall provide the subdivision with adequate drains, ditches, culverts, bridges, storm sewers, intakes, and manholes to provide for the collection and on-site management of surface waters, and these improvements shall extend to the boundaries of the subdivision as to provide for extension to adjoining properties.
4. **Streets.** All streets shall be constructed using an urban cross section with curb and gutter and all weather surface of Portland cement concrete or asphaltic cement paving between the gutters. The Council may, at their discretion, allow streets to be constructed using a rural section with drainage ditches on both sides of the street. All streets shall be constructed to the grade, alignment, and thickness approved by the Council. Urban section requirements are as follows:
 - A. Minimum grade shall be one half percent, with one percent the preferred slope.
 - B. Surface crown shall be six inches.
 - C. Curbs shall be six inches high and wide.
5. **Sidewalks and Public Pathways.** Sidewalks and/or public pathways constructed of Portland cement concrete and in compliance with the Americans with Disabilities Act shall be required unless a waiver is granted by Council based on variations and exceptions.
6. **Stormwater Management.** The subdivider shall be required to make adequate provisions to control the rate of storm or flood water runoff including by stormwater management measures by pipe or surface channelization any surface water that may

exist prior to development of the subdivision and the adjacent properties. The stormwater management system shall conform to the following:

- A. Grading, facilities, or improvements or some combination thereof, which results in no increase in the rate of runoff when compared to the undeveloped condition of the area of the proposed subdivision.
 - B. Incorporate rainfall frequencies of 5-, 10-, and 100-year design storm events.
 - C. Accommodate runoff from any upstream area potentially draining into or through the area of the proposed subdivision.
 - D. Provide for mitigation of any overload condition reasonably anticipated on any existing downstream storm water management measure outside of the area of the proposed subdivision, provided that the development or use of the area of the proposed subdivision creates or contributes to such condition.
7. Soil Erosion and Sedimentation Control. The subdivider shall grade any portion of the area of the proposed subdivision only in conformance with an approved grading plan, including an approved erosion and sedimentation control plan for the entire area. The subdivider shall provide the City with a copy of the NPDES Discharge Permit Authorization as required from the Iowa Department of Natural Resources for coverage of the proposed subdivision.
8. Street Lights. Street lights shall be designed by the power utility, provided and installed by the subdivider at no cost to the City.
9. Signs. Traffic control signs will be furnished by the City and installed by the subdivider. Street name signs are required and shall be furnished and installed by the subdivider.
10. Specifications. The type of construction, materials, methods and standards of subdivision improvements shall be in accordance with the *Iowa Statewide Urban Design and Specifications*, current edition. Construction plans and any supplemental specifications shall be submitted to the City for approval prior to construction and construction shall not begin until the plans and specifications have been approved by the Commission and Council.
11. Inspection. The Council shall cause the installation of all improvements to be inspected to insure compliance with the requirements of this chapter. The cost and services of such inspection shall be provided by the subdivider.
12. Comprehensive Plan. All proposed subdivisions shall conform to the Comprehensive Plan of the City as amended.

170.13 FEES. Before the City accepts a sketch plat, preliminary plat, or final plat for review, the subdivider or agent shall deposit with the Clerk a fee according to the following schedule. The appropriate fees shall be deposited at the time of the filing of the submittal.

Fees for Plats	
Sketch Plat	No fee required
Preliminary Plat	\$100.00, plus \$5.00 for each lot in the proposed subdivision
Final Plat	\$200.00, plus \$10.00 for each lot in the proposed subdivision
In addition, fees for professional services incurred by the City for the examination and review of the preliminary plat and final plat shall be paid by the subdivider.	

170.14 VARIATIONS AND EXCEPTIONS. Whenever the tract proposed to be subdivided is of such unusual topography, size, or shape or is surrounded by such development or unusual conditions not created by the subdivider that the strict application of the requirements in this chapter would result in substantial hardships or injustices, the Council upon recommendation of the Commission may vary or modify such requirements wherever provided within this chapter to permit reasonable development of the property while protecting the public welfare and interest of the City and surrounding area and preserving the general intent and spirit of this chapter.

170.15 ENFORCEMENT.

1. No plat or any subdivision in the City or within two miles thereof shall be recorded or filed with the County Auditor or County Recorder or have any validity until it complies with the requirements of this chapter and has been approved in the manner prescribed herein.
2. No building permit shall be issued on any lot, parcel or tract within any subdivision unless and until such subdivision has been approved and recorded in accordance with this chapter.
3. The Council shall not permit any public improvements over which it has control to be made from City funds or any City money expended for improvements or maintenance on any area that has been subdivided after the date of adoption of the ordinance codified by this chapter unless such subdivision or street has been approved in accordance with the provisions contained herein and accepted by the Council as a public street.
4. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure or premises and these remedies shall be in addition to penalties for violation of this chapter.

170.16 CHANGES AND AMENDMENTS. Any provisions of this chapter may be changed and amended from time to time by the Council; provided, however, such changes and amendments shall not become effective until after study and recommendation by the Commission. The Commission shall report within 30 days, after which time the Council shall give notice of and hold a public hearing on the proposed amendment.

170.17 VALIDITY. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these regulations.

o o o o o o o o o o

INDEX TO CODE OF ORDINANCES

CHAPTER OR SECTION NUMBER

ABANDONED BUILDINGS	145
ABANDONED OR UNATTENDED REFRIGERATORS	41.08
ABANDONED UTILITY CONNECTIONS	
On-Site Wastewater Treatment and Disposal Systems	98.07
Sanitary Sewer Service	95.06
Water Service	90.04
ABANDONMENT OF CATS AND DOGS	55.04
ABATEMENT OF NUISANCES	50
ACCOUNTING RECORDS	7.07
AIR POLLUTION	50.02(8)
<i>See also ENVIRONMENTAL VIOLATION</i>	3.02
AIRPORT AIR SPACE	50.02(11)
ALCOHOL	
Consumption and Intoxication	45
Liquor Licenses and Wine and Beer Permits	120
Open Containers in Motor Vehicles.....	62.01(50) and (51)
Social Host Liability	45.04
ALL-TERRAIN VEHICLES AND SNOWMOBILES	75
AMUSEMENT DEVICES	120.06
ANGLE PARKING	69.04 and 69.05
ANIMAL PROTECTION AND CONTROL	
Abandonment of Cats and Dogs	55.04
Animal Neglect	55.02
Annoyance or Disturbance	55.08
At Large Prohibited.....	55.06
Confinement of Animals Suspected of Having Rabies	55.13
Damage or Interference by Animals	55.07
Duty to Report Attacks.....	55.12
Impounding	55.14 - 55.15
Livestock.....	55.03 and 55.05
Pet Awards Prohibited.....	55.16
Rabies Vaccination.....	55.11
Tampering with a Rabies Vaccination Tag	55.17
Tampering with an Electronic Handling Device.....	55.18
Vicious Dogs.....	55.10
ANTENNA AND RADIO WIRES	41.09
APPOINTMENTS	
By Council	17.05
By Mayor	15.03
ASSAULT	40.01

	CHAPTER OR SECTION NUMBER
ATTORNEY FOR CITY	20
ATVS, UTVS, AND SNOWMOBILES	75
AUTOMOBILE REPAIR ON PUBLIC PROPERTY	69.06(2)
AWNINGS	136.12
BARBED WIRE AND ELECTRIC FENCES	41.10
BEER, LIQUOR, AND WINE CONTROL <i>See</i> ALCOHOL	
BILLBOARDS	50.02(6) and 62.06
BONDS	
City Officials	5.02
Public Bonds, Records of	18.08(3)
Streets	135.09(4)
BUDGET	
Amendments.....	7.06
Preparation	7.05
BUILDING CODE	153
BUILDING NUMBERING	150
BUILDING SEWERS AND CONNECTIONS	96
BUILDINGS, DANGEROUS	145
BULKY RUBBISH	106.05
BURNING	
Burning on Streets and Alleys.....	135.08
Fires or Fuel on Sidewalks	136.15
Open Burning Restricted	105.05
Yard Waste.....	105.06
BUSINESS DISTRICT	60.02(1)
<i>See also:</i>	
Sidewalks	136.08(5)(B)
CAR WASHING ON STREETS	135.07
CEMETERY PROVISIONS	111
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits)	63.03
CHARTER	2
CIGARETTES AND TOBACCO	
Permits.....	121
Possession by Minors	46.02
CITY ATTORNEY	20

	CHAPTER OR SECTION NUMBER
CITY CHARTER	2
CITY CLERK	18
CITY COUNCIL	
Appointments by	17.05
Compensation.....	17.06
Meetings.....	17.04 and 5.06
Number and Term	2.04 and 17.01
Powers and Duties.....	17.02 and 17.03
CITY ELECTIONS	6
CITY OFFICERS AND EMPLOYEES	
Appointments by Council	17.05
Appointments by Mayor	15.03
Bonds	5.02
Cemetery Superintendent	111
City Attorney.....	20
City Clerk.....	18
City Council	17
City Treasurer.....	19
Conflict of Interest	5.07
Discretionary Powers	1.13
Extension of Authority	1.07
Gifts to.....	5.11
Harassment of.....	41.05
Indemnity of.....	1.04
Mayor	15
Oath of Office	5.01
Powers and Duties.....	5.03
Removal of an Officer’s Communication or Control Device	41.07
Removal of Appointed Officers and Employees.....	5.09
Resignations	5.08
Sewer Superintendent.....	95.03
Vacancies	5.10
Water Superintendent.....	90.02
CITY OPERATING PROCEDURES	5
CITY POWERS	1.03
CITY SEAL	18.13
CIVIL CITATIONS	3.04
CLINGING TO VEHICLE	62.04
CODE OF IOWA TRAFFIC REGULATIONS	62.01

CHAPTER OR SECTION
NUMBER

CODE OF ORDINANCES

Altering..... 1.10
 Amendments to..... 1.08
 Catchlines and Notes 1.09
 Definitions of Terms 1.02
 Rules of Construction..... 1.06
 Validity..... 1.11

COMPENSATION

Changes in..... 17.02(7)
 City Attorney..... 20.01
 City Clerk 18.01
 Council Members 17.06
 Mayor 15.04
 Mayor Pro Tem 16.04
 Set by Council 17.02(7)
 Treasurer..... 19.02

CONFLICT OF INTEREST 5.07

CONTRACT LAW ENFORCEMENT 30

CONTRIBUTING TO DELINQUENCY 46.02

COUNCIL 17

COUNCIL MEETINGS..... 17.04

CRIMINAL MISCHIEF 42.02

CROSSWALKS

Designation and Maintenance 61.02
 Parking Prohibited in 69.06(1)
 Pedestrians in Crosswalks 65.08

DANGEROUS BUILDINGS 145

DANGEROUS SUBSTANCES, DISTRIBUTING OF 41.01

DANGEROUS TOYS (THROWING AND SHOOTING) 41.12

DEFACING PROCLAMATIONS AND NOTICES 42.03

DEPOSIT FOR UTILITIES..... 92.09

DEPOSITS AND INVESTMENTS..... 7.03(2)

DESTRUCTION OF PROPERTY 42.02

DISCRETIONARY POWER OF CITY OFFICERS AND EMPLOYEES..... 1.13

DISORDERLY CONDUCT 40.03

DOGS..... 55

See also ANIMALS

DRIVEWAY CULVERTS..... 135.13

	CHAPTER OR SECTION NUMBER
DRUG PARAPHERNALIA	41.15
DUTCH ELM DISEASE	50.02(10)
EASEMENTS, USE OF	95.08
ELECTIONS	
Duties of Clerk	18.12
Procedures	6
ELECTRIC FRANCHISE	110
ENVIRONMENTAL VIOLATIONS	3.02
EXCAVATIONS	
Sewer	96.04
Streets	135.09
Water	90.09
EXTENSION OF AUTHORITY	1.07
FAILURE TO ASSIST	41.16
FAILURE TO DISPERSE	40.04
FALSE IDENTIFICATION INFORMATION	41.03
FALSE REPORTS	
Of Catastrophe	40.03(5)
To Public Safety Entities	41.02
FENCES	151
Barbed Wire and Electric Fences	41.10
Blocking Public and Private Ways	50.02(5)
FIGHTING	40.03(1)
FINANCE OFFICER	7.02
FINANCES	7
FINANCIAL REPORTS	7.08
FIRE HAZARD CONDITIONS	
Health and Fire Hazard	105.04
Storing of Flammable Junk	50.02(7)
Unsafe Buildings	145
Weeds and Brush	50.02(9)
FIRE SPRINKLER SYSTEMS CONNECTIONS	91.03
FIRES	
On Sidewalks	136.15
Open Burning Restricted	105.05
FIREWORKS	41.14
FISCAL MANAGEMENT	7
FLAG, DISRESPECT OF	40.03(6)

	CHAPTER OR SECTION NUMBER
FORM OF GOVERNMENT	2.02
FRAUD	42.05
FUNDS	7.04
FUNERAL SERVICE, DISRUPTION OF	40.03(8)
<i>See also</i> State Code Traffic Regulations	62.01
GANG ACTIVITY	50.02(12)
GARBAGE COLLECTION AND DISPOSAL	105 and 106
GIFTS TO CITY OFFICIALS	5.11
GRADES OF STREETS, ALLEYS, AND SIDEWALKS	138
HANDICAPPED PARKING	
<i>See</i> Persons with Disabilities Parking	69.08
HARASSMENT	
Of Other Persons	40.02
Of Public Officers and Employees	41.05
HAZARDOUS SUBSTANCE SPILLS	36
HAZARDOUS WASTE	105.08
<i>See also</i> Prohibited and Restricted Discharges to Sewer System.....	97.03 and 97.04
HITCHHIKING	67.02
HOUSE NUMBERS	150
HOUSES OF ILL FAME	50.02(12)
IMPOUNDING	
Animals	55.14
Vehicles.....	70.06
INDEMNITY AGREEMENT, PERMITS, AND LICENSES	1.04
INDUSTRIAL PRETREATMENT REQUIREMENTS	100
INSPECTIONS	
Building Sewers and Connections.....	96.08 or 96.07
Sanitary Sewer System	95.03(2)
Street Use and Maintenance	135.09(7)
Water Service System	90.16
INSURANCE REQUIREMENTS	
Fireworks.....	41.14
Street Excavations	135.09
INTERFERENCE WITH OFFICIAL ACTS	41.06
INTERMENT RIGHTS	111
INVESTMENTS AND DEPOSITS	7.03(2)

	CHAPTER OR SECTION NUMBER
JUNK AND JUNK VEHICLES	51
<i>See also</i> Storing of Flammable Junk.....	50.02(7)
LEGAL OPINIONS	20.06
LICENSES	
Drivers.....	62.01
Liquor.....	120
<i>See also</i> Issuance of Licenses and Permits.....	18.10
<i>See also</i> Permits	
LIQUOR LICENSES AND WINE AND BEER PERMITS	120
LITTERING	
Debris on Sidewalks.....	136.17
Placing Debris on Streets	135.03
Solid Waste Control.....	105.07
LIVESTOCK	55.03 and 55.05
LOAD AND WEIGHT RESTRICTIONS, VEHICLES	66
MANUFACTURED AND MOBILE HOMES	146
MAYOR	
Appointments	15.03
Compensation.....	15.04
Powers and Duties.....	15.02
Term of Office.....	15.01
Voting.....	15.05
<i>See also</i> City Officers And Employees	
MAYOR PRO TEM	16
MEETINGS	
Council Meetings	17.04
Procedures for Notice and Conduct of	5.06
Publication of Minutes of Council Meetings	18.03
METERS, WATER	91
MINORS	46
<i>See also:</i>	
Amusement Devices.....	120.06
Employment for Serving of Alcohol.....	120.05(4)
In Licensed Premises.....	120.05(12)
Persons Under Legal Age (Alcohol)	45.01
Persons Under Legal Age (Tobacco)	121.07
MOBILE HOMES	146
MUNICIPAL INFRACTIONS	3
<i>See also</i> Municipal Infraction Abatement Procedure.....	50.07

	CHAPTER OR SECTION NUMBER
NAMING OF STREETS	139
NOISE	
Annoyance or Disturbance (Barking Dogs)	55.08
Disorderly Conduct	40.03(2) and 40.03(7)
Quiet Zones	62.05
NOMINATIONS FOR ELECTIVE OFFICES	6
NUISANCE ABATEMENT PROCEDURE	50
NUMBERING OF BUILDINGS	150
OATH OF OFFICE	5.01
OFFENSIVE SMELLS AND SUBSTANCES	50.02(1) and (2)
<i>See also</i> Restricted Discharges to Sanitary Sewer System.....	97.04
ONE-WAY TRAFFIC	68
ON-SITE WASTEWATER SYSTEMS	98
OPEN BURNING	105.05
OPEN CONTAINERS IN MOTOR VEHICLES	62.01(50) and (51)
OPEN MEETINGS	5.06
OPERATING PROCEDURES	5
PARKING REGULATIONS	
Angle Parking.....	69.04 and 69.05
Illegal Purposes	69.06
Park Adjacent to Curb.....	69.02 and 69.03
Parking Prohibited.....	69.07
Parking Violations.....	70.03 and 70.04
Persons With Disabilities Parking.....	69.08
Snow Removal	69.10
Truck Parking Limited	69.09
PEACE OFFICERS	
Failure to Assist.....	41.04
Interference with.....	41.06
Obedience to.....	60.07
Powers and Authority under Traffic Code	60
Removal of an Officer’s Communication or Control Device.....	41.07
PEDESTRIANS	67
<i>See also:</i>	
Crosswalks	61.02
State Code Traffic Regulations	62.01
Yield to Pedestrians in Crosswalks	65.08

CHAPTER OR SECTION
NUMBER

PENALTIES

Cigarette and Tobacco Permits 121.07
 Municipal Infractions 3
 Sanitary Sewer Regulations 95.09
 Sewer Connection Requirements 96.10
 Standard Penalty for Violation of Code of Ordinances..... 1.14
 Traffic Code Violations..... 70

PERMITS

Beer and Wine..... 120
 Cigarette and Tobacco..... 121.02
 Fireworks 41.14
 On-Site Wastewater System..... 98.04
 Persons with Disabilities Parking..... 69.08
 Sewer Connection 96.01
 Sidewalks 136.07
 Street Excavation 135.09(1)
 Vehicles, Excess Size and Weight 66.02
 Vending Machines and Sales Stands on Sidewalks 136.19
 Water System Connection..... 90.05
See also Issuance of Licenses and Permits..... 18.10
See also Licenses

PERSONAL INJURIES 1.05

PET AWARDS PROHIBITED..... 55.16

PLANNING AND ZONING COMMISSION..... 23

PLAY STREETS 62.02

See also Playing in Streets 135.04

POLLUTION

Air Pollution..... 50.02(8)
 Environmental Violations 3.02
 Hazardous Substance Spills 36
 Incinerators Required 105.10
 Open Burning Restricted..... 105.05
 Prohibited Discharges to Public Sewer 97.03
 Restricted Discharges to Sewer System 97.04
 Toxic and Hazardous Wastes 105.08
 Water Pollution 50.02(4)

POWERS AND DUTIES

City Clerk..... 18.02
 City Council 17.02 and 17.03
 City Officers Generally 2.03
 City Treasurer..... 19.03
 Mayor 15.02
 Mayor Pro Tem 16.02
 Municipal Officers 5.03

	CHAPTER OR SECTION NUMBER
PRIVATE PROPERTY	42
PRIVATE WATER SYSTEMS (SEWER CHARGES)	99.04
PROPERTY MAINTENANCE CODE	154
PUBLIC AND PRIVATE PROPERTY	
Criminal Mischief.....	42.02
Damage to Sewer System.....	95.04(1)
Defacing Proclamations or Notices	42.03
Fraud.....	42.05
Littering Prohibited	105.07
Public and Private Property	42
Sidewalk Regulations	136
Street Excavations	135
Theft	42.06
Trespassing.....	42.01
Unauthorized Entry	42.04
PUBLIC HEALTH AND SAFETY	41
PUBLIC NOTICES	18.05(1)
PUBLIC OFFENSES	
Drug Paraphernalia.....	41.15
Littering Prohibited	105.07
Public and Private Property	42
Public Health and Safety	41
Public Peace	40
<i>See also</i> Sidewalk Regulations.....	136
PUBLICATION REQUIREMENTS	18.05
RABIES VACCINATION	55.11
RECORDS	
Accounting	7.07
Maintenance by Clerk	18.08
Minutes of Council Meetings	5.06(3)
Public Records, Access to	5.04
Transfer to Successors.....	5.05
REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES	5.09
RESIDENTIAL CODE	152
RESIGNATION OF ELECTED OFFICERS	5.08
RIGHT TO ENTER	
Sewer Service Inspection and Sampling	95.07
Solid Waste Collection.....	106.06
Use of Easements	95.08
Warrants	1.12
Water Meter Service.....	91.08

	CHAPTER OR SECTION NUMBER
SANITARY SEWER SYSTEM	
Building Sewers and Connection Requirements	96
General Provisions	95
On-Site Wastewater Systems	98
Sewer Service Charges.....	99
Use of Public Sewers	97
SEWER RATES	99
SIDEWALKS	
Barricades and Warning Lights.....	136.09
Bicycles on Sidewalks.....	76.08
Construction Standards	136.08
Debris on	136.17
Defacing	136.16
Encroaching Steps.....	136.13
Fires and Fuel on.....	136.15
Interference with Improvements	136.11
Maintenance	136
Openings and Enclosures	136.14
Parking Prohibited on Sidewalks	69.06(4)
Sales Stands and Merchandise Displays	136.18 and 136.19
Snow Removal	136.03
Use by Pedestrians	67.04
Vehicles Crossing Sidewalks	65.06
Vehicles on Sidewalks	62.03
SKATES, COASTERS, AND TOY VEHICLES	
Clinging to Vehicle	62.04
SNOW REMOVAL	
From Sidewalks.....	136.03
From Streets	135.12
Parking	69.10
SOLID WASTE CONTROL	
Collection	106
General Provisions	105
<i>See also</i> Restricted Discharges to Sewer System.....	97.04
SPEED REGULATIONS	63
STATE CODE TRAFFIC REGULATIONS	62.01
STOP OR YIELD REQUIRED	65
STORMWATER	
Discharge to Sanitary Sewer Prohibited.....	95.04(2) and 97.01
Surface Water Exception.....	97.02
Utility	101
STREET NAME MAP	139.04 and 139.05

CHAPTER OR SECTION
NUMBER

STREETS AND ALLEYS

Billboards and Signs Obstructing View 50.02(6)
 Blocking Public and Private Ways 50.02(5)
 Excavations and Maintenance 135
 Grades..... 138
 Naming 139
 Vacation and Disposal..... 137

See also Traffic Code

SUBDIVISION REGULATIONS 170

TERMS OF OFFICE

Clerk 18.01
 Council 2.04 and 17.01
 Mayor 2.05 and 15.01
 Treasurer..... 19.01

THEFT

Public and Private Property 42.06

TOBACCO PERMITS..... 121

TOXIC AND HAZARDOUS WASTE 105.08

TRAFFIC CODE

Administration of 60
 Enforcement Procedures..... 70
 General Regulations 62
 Load and Weight Restrictions 66
 One-Way Traffic 68
 Parking Regulations 69
 Pedestrians..... 67
 Speed Regulations 63
 Stop or Yield Required..... 65
 Traffic Control Devices..... 61
 Turning Regulations 64

TRAFFIC CONTROL DEVICES

Installation; Standards; Compliance..... 61
 Traveling on Barricaded Street or Alley 135.05

TRAFFIC REGULATIONS..... 62.01

TREASURER 19

TRESPASSING 42.01

TRUCK PARKING LIMITED 69.10

TRUCK ROUTES 66.05

TURNING REGULATIONS..... 64

UNAUTHORIZED ENTRY 42.04

URBAN REVITALIZATION AREA 8

	CHAPTER OR SECTION NUMBER
URINATING AND DEFECATING IN PUBLIC	41.13
UTILITIES	
Electric	110
Sewer Service System	95 - 99
Water Service System	90 - 92
U-TURNS	64.02
VACANCIES IN OFFICE	5.10
VACATING STREETS OR ALLEYS	137
VETO	
Council May Override.....	17.03
Mayor’s Authority.....	15.02(4)
VICIOUS DOGS	55.10
VIOLATIONS	
Cigarette and Tobacco Violations (Sale to Minors).....	121.07
Environmental	3.02
Municipal Infractions	3
Parking	70
Special Penalties for Violation of Sanitary Sewer Regulations	95.09
Standard Penalty for Violation of Code of Ordinances.....	1.14
Traffic.....	62.01
WARRANTS	1.12
WASTE STORAGE CONTAINERS	105.09
WASTEWATER SYSTEMS, ON-SITE	98
WATER POLLUTION	50.02(4)
WATER SERVICE SYSTEM	
Connections; General Regulations	90
Meters.....	91
Rates.....	92
WEAPONS	
Discharging Weapons in City Limits	41.11
Throwing and Shooting.....	41.12
WEEDS AND BRUSH	50.02(9)
WINE	
<i>See Alcohol</i>	
YARD WASTE	105.06
YIELD REQUIRED	65
ZONING REGULATIONS	165

CHAPTER OR SECTION
NUMBER

o o o o o o o o o o

APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF _____ STREET

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of _____, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. _____ Street, on the _____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of _____, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.____ on the ____ day of _____, 20____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of _____, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$_____ dollars per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO _____, IOWA

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. The (location or legal description of street or alley) to _____, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ___ day of _____, 20___, and approved this ___ day of _____, 20___.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 20___.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of _____, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of _____, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of _____, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of _____, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of _____, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ___ day of _____, 20___.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of _____, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of _____, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of _____, Iowa, will meet on the ___ day of _____, 20___, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of _____, Iowa

By: _____,
(Name)

(Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of _____, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20__, on _____, (Name of Property

Owner)

through _____, Agent, (Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____ within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____ ,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20__.

Mayor

ATTEST:

City Clerk